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BEFORE: THE HONORABLE F. DENNIS SAYLOR, IV

John Joseph Moakley United States Courthouse
Courtroom No. 2
1 Courthouse Way
Boston, MA 02210

Valerie A. O'Hara
Official Court Reporter
John Joseph Moakley United States Courthouse
1 Courthouse Way, Room 3204
Boston, MA 02210
E-mail: vaohara@gmail.com

1
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17 Canton, MA 02021;18 For the Defendant Cesar Martinez:19 Stanley W. Norkunas, 11 Kearney Square,
20 Howe Building, Suite 202, Lowell, Massachusetts 01852.21 ROBERT M. SALTZMAN, ESQ., 1 Central Street, Suite 5,
22 Stoneham, Massachusetts 02180.23 ALSO PRESENT: Gabriel Haddad, Spanish Interpreter
24 Carrie Lilley, Spanish Interpreter
25

1		<u>I N D E X</u>			
2	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	SHAWN RILEY				
4	By Ms. Lawrence	8			
	By Mr. Iovieno		18		
5	ROBERT IMPEMBA				
6	By Ms. Lawrence	20			
7	CARLOS RIVERA				
	By Ms. Lawrence	25			
8	MICHAEL CAPASSO				
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10	STAR CHUNG				
	By Mr. Pohl	46			
11	By Mr. Norkunas		60		
12	DEBORAH HUACUJA				
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13	By Mr. Norkunas		92		
	By Ms. Rodriguez		96		
14	By Mr. Lopez		105		111
15	JOSE HERNANDEZ-MIGUEL				
16	By Mr. Pohl	112			
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PROCEEDINGS

THE CLERK: All rise. Thank you. Please be seated.
Court is now back in session.

THE COURT: Good morning, everyone.

MR. POHL: Good morning, your Honor.

THE COURT: What, if anything, do we have to talk
about? Mr. Iovieno.

MR. IOVIENO: Yes, your Honor, thank you, my
understanding is today we're going to get into the firearm
issue, the issue I raised in my motion in limine. My memory
with the Court I'm going to object at the appropriate time that
the Court was inclined to give a limiting instruction.

THE COURT: I've got my notes here. All right. I
think this is your motion 1734, you wanted to exclude all
evidence of firearm offenses, correct?

MR. IOVIENO: Yes.

THE COURT: All right. What do you want me to, I
guess what's the evidence and what do you want me to say?

MS. LAWRENCE: Yes, your Honor, we will be putting in
evidence today that various individuals who are members of this
clique, the defendant's clique possessed firearms and one of
the defendants as well. The evidence will not be that firearms
are a racketeering act, possession or use of, it will be simply
being conducting the affairs of the enterprise guns were
involved, and they used the guns to carry out those criminal

1 activities.

2 THE COURT: Okay. What do you want me to say,
3 Mr. Iovieno?

4 MR. IOVIENO: Something to the effect that firearms,
5 possession of and perhaps dealing in firearms is not a
6 racketeering act. It may be admissible for some other purpose,
7 identification for the use, but is not racketeering act.

8 THE COURT: Okay.

9 MR. NORKUNAS: Judge, I join with that if I might, my
08:34AM 10 anticipation is Mr. Muerto is going to place some sort of
11 firearm, wasn't seen by anywhere else, wasn't acquired but he
12 would still place a firearm in Mr. Martinez's hands at some
13 point.

14 THE COURT: All right. I would expect that the
15 evidence I will give a cautionary instruction. I haven't
16 really talked to them very much about racketeering act. Let me
17 think about that for a moment. I don't want to drop this out
18 of them out of the blue, in other words, I think I want to say
19 that proof of the crime requires, among other things, proof
08:35AM 20 that there were two or more racketeering acts, which in this
21 case are specifically charged, does not include any firearms
22 related crimes. They are not charged as rear acts, in fact, no
23 one is charged with a firearms crime.

24 MS. LAWRENCE: I think that would be fine, your Honor.
25 The context, it does a little bit out of context at this point

1 in the trial, and we certainly wouldn't object to giving that
2 at the end of the case to make clear that one of the
3 racketeering acts charged is not the use or possession of
4 firearms. Now it seems a little as you said out of the blue to
5 the jury but we don't really object to some kind of objection.

6 THE COURT: All right. Again, I expect that I'll
7 admit the evidence and expect to give an instruction along
8 those lines.

9 MR. IOVIENO: Thank you, your Honor.

08:35AM 10 THE COURT: Anything else? All right. We'll start
11 then as soon as we have our full complement of jurors, today
12 will be a normal break day, today we start at 9:30, take one
13 mid-morning break.

14 MR. POHL: Thank you.

15 THE CLERK: All rise.

16 (A recess was taken.)

17 THE CLERK: All rise for the jury.

18 (JURORS ENTERED THE COURTROOM.)

19 THE COURT: Good morning, everyone.

09:10AM 20 MR. POHL: Good morning, your Honor.

21 THE COURT: Ms. Lawrence, are you ready?

22 MS. LAWRENCE: The government calls Shawn Riley.

23 SHAWN RILEY, having been duly sworn by the Clerk,
24 testified as follows:
25

1 DIRECT EXAMINATION

2 BY MS. LAWRENCE:

3 Q. Good morning. Can you please state and spell your name
4 for the record jury, please.

5 A. Good morning. My name is Shawn Riley, S-h-a-w-n,
6 R-i-l-e-y.

7 Q. Where do you work?

8 A. I've been employed by the Massachusetts State Police since
9 June of 2000.

09:11AM 10 Q. What is your title?

11 A. I'm a trooper.

12 Q. And, Trooper Riley, what is your current assignment with
13 the Massachusetts State Police?

14 A. I'm assigned to the state-wide gang unit.

15 Q. Do you have any other assignments?

16 A. Yes, I'm also a task force officer with the FBI
17 North Shore Gang Task Force.

18 Q. Can you tell us a little bit about the North Shore Gang
19 Task Force and what it does?

09:12AM 20 A. It's a collaborative of different agencies, local, state,
21 federal. We investigate gangs and the various crimes that they
22 commit.

23 Q. As part of your work with the Massachusetts State Police
24 Gang Unit, do you also investigate gangs?

25 A. Yes.

1 Q. Through your work with the task force and Massachusetts
2 State Police, have you become familiar with a gang known as
3 MS-13?

4 A. Yes, I have.

5 Q. And what is MS-13?

6 MR. MURPHY: Objection, your Honor.

7 THE COURT: I think we've been over this. Sustained.
8 Go ahead.

9 Q. Have you personally participated in police investigative
09:12AM 10 activities in connection with the MS-13 gang?

11 A. Yes, I have.

12 Q. What kinds of things have you done?

13 A. I've partaken in surveillance of gang meetings, also
14 surveillance of controlled narcotic buys, as well as my patrol
15 function just patrolling certain areas of the Commonwealth.

16 Q. I want to turn your attention to January 28, 2015. Were
17 you involved in an arrest on that date?

18 A. Yes, I was.

19 Q. How did you get involved?

09:13AM 20 A. I was notified by a trooper that I work with that his
21 informant was with an individual at a restaurant in Chelsea,
22 Massachusetts that had a firearm on them.

23 Q. And what did you do when you received that information?

24 A. Myself and others went to that area and conducted
25 surveillance.

1 MS. LAWRENCE: Okay. I'd like Exhibit 68 just for the
2 witness, please.

3 Q. Trooper Riley, do you recognize the area shown in this
4 photograph?

5 A. Yes, I do.

6 Q. What is it?

7 A. It's a depiction of a Casa Mariachi, which is a business
8 located on Everett Avenue in Chelsea at the corner of Walnut
9 Street.

09:14AM 10 Q. Does the picture show the restaurant and the area in front
11 of it as it looked on January 28, 2015?

12 A. No, it does not.

13 Q. How is it different?

14 A. There was a lot of snow.

15 Q. And apart from the lack of snow in this photograph, does
16 it accurately represent the business and the sidewalk street
17 area around it?

18 A. Yes, it does.

19 MS. LAWRENCE: Your Honor, at this time I move to
09:14AM 20 admit Exhibit 68 in evidence.

21 THE COURT: It's admitted, Exhibit 68.

22 (Exhibit No. 68 received into evidence.)

23 Q. Trooper Riley, using this photograph, and if you'd like to
24 draw on the screen with your finger, you can, can you describe
25 what happened when you arrived at this location on January 28,

1 2015?

2 A. We were conducting surveillance of that restaurant, and an
3 individual who we believed was the person that we were
4 surveilling stepped out of the restaurant and walked to this
5 area over here on the side of building, which is on Walnut
6 Street.

7 Q. And the person that you were surveilling that day, do you
8 see that individual in the courtroom today?

9 A. Yes, I do.

09:15AM 10 Q. Can you please point him out for the jury.

11 A. The gentleman sitting in the middle table right there.

12 Q. Can you describe what he's wearing, please?

13 A. A blue sports coat with a white shirt.

14 Q. Okay. Thank you. So you saw the individual walk around
15 the corner toward Walnut Street. What happened next?

16 A. Myself and Trooper Christopher St. Ives decided to
17 approach the individual. I pulled my cruiser down Walnut
18 Street and exited my cruiser and approached the individual from
19 the Walnut Street side in this area over here, and

09:16AM 20 Trooper St. Ives came in this area here, so we started having a
21 conversation with him on the sidewalk on the side of the
22 restaurant.

23 Q. What did you say to him?

24 A. Initially just identified myself. Because we're dressed
25 in plain clothes, I didn't want to -- in my past experience, I

1 didn't want to alarm the person, so I identified myself, I
2 said, "State Police, can I talk to you for a minute?" And my
3 badge was shown and when we started talking to the individual,
4 just having casual conversation, I eventually asked him, I
5 said, "Hey, do you happen to have a weapon on you?"

6 Q. And what did he do when you asked him that?

7 A. He started to look around and he backed up towards the
8 restaurant.

9 Q. Did you do anything in response to his actions?

09:16AM 10 A. I did.

11 Q. What was that?

12 A. I was standing, which would have been to his left, my
13 right, I immediately grabbed his left hand, and
14 Trooper St. Ives grabbed his right hand.

15 Q. Did you do anything after that?

16 A. I did.

17 Q. What was it?

18 A. While we had control of his hands, with my left hand, I
19 reached around his waistband from the front patting him down.

09:17AM 20 Q. Did you feel anything during the pat frisk?

21 A. I did.

22 Q. What?

23 MR. NORKUNAS: Objection, your Honor.

24 THE COURT: Overruled.

25 A. I felt what, in my experience, has taught me to be the

1 butt of a handgun.

2 Q. And when you felt what you thought to be the butt of the
3 handgun, what did you do?

4 A. I notified Trooper St. Ives of what I thought was a
5 handgun on his hip, and Trooper St. Ives reached in and pulled
6 out a handgun that was on the individual's right hip.

7 Q. And where did he put that gun when he took it from the
8 individual?

9 A. He put it in his pocket. Trooper St. Ives put it in his
09:17AM 10 pocket.

11 Q. So you're holding onto the individual. You've taken a gun
12 from his waistband. What happened next?

13 A. I looked right at him, I said, "Hey, do you have a license
14 for this gun?" And he said, "No."

15 Q. And what did you do?

16 A. At that point, we placed him in handcuffs and told him
17 that he was under arrest for possession of handgun.

18 Q. Did you leave with him at that point, or what did you do
19 with him?

09:18AM 20 A. Yes, eventually we transported him to the State Police
21 Barracks in Revere where he was booked.

22 Q. And what happened to the handgun?

23 A. It was placed into evidence.

24 Q. Okay. And while you were booking this individual, did you
25 learn his name?

1 A. We did, yes.

2 Q. What was his name?

3 A. Erick Argueta.

4 MS. LAWRENCE: For the witness, please.

5 Q. I'm showing you what's been marked as Exhibit 5. Do you
6 recognize the person in this photograph?

7 A. Yes.

8 Q. Who is it?

9 A. Mr. Argueta.

09:18AM 10 Q. The person you arrested?

11 A. Yes.

12 Q. With the gun?

13 MS. LAWRENCE: Okay. Next, I'm showing just for the
14 witness, please, Exhibit 19.

15 Q. Do you recognize the man in this photograph?

16 A. Yes.

17 Q. And who is it?

18 A. Again, Mr. Argueta.

19 Q. What are those hand gestures that he is making in this
09:19AM 20 photograph?

21 MR. NORKUNAS: Objection, your Honor. Foundation.

22 THE COURT: Sustained.

23 Q. Do you know Mr. Argueta by another name?

24 A. Yes.

25 Q. What is that?

1 MR. NORKUNAS: Objection, your Honor.

2 THE COURT: Again, you'll have to lay a foundation.

3 Sustained.

4 Q. Did you -- when you arrested Mr. Argueta and booked him at
5 the police station --

6 A. Yes.

7 Q. -- did you observe anything about his physical appearance?

8 A. Yes.

9 Q. What was that?

09:19AM 10 A. He had several tattoos on his body.

11 Q. Can you describe, if you remember, what those look like,
12 or any one of them?

13 A. I'd have to see them.

14 MS. LAWRENCE: Your Honor, I move Exhibits 5 and 19
15 into evidence at this time.

16 THE COURT: What are 5 and 19?

17 MS. LAWRENCE: The photographs the trooper just --

18 MR. NORKUNAS: Objection.

19 MS. LAWRENCE: Trooper Riley just identified.

09:20AM 20 THE COURT: The two photographs?

21 MS. LAWRENCE: Two photographs.

22 MR. IOVIENO: My objection is to the second
23 photograph.

24 MS. LAWRENCE: He identified the individual, your
25 Honor, in the second photograph.

1 THE COURT: Overruled. 5 and 19 are admitted.

2 (Exhibit Nos. 5 and 19 received into evidence.)

3 Q. Back to the gun that you took from Mr. Argueta, you said
4 you placed it into evidence?

5 A. Yes.

6 MS. LAWRENCE: Permission to approach the witness,
7 your Honor.

8 THE COURT: Yes.

9 While we're doing is that, let me give the jury an
09:20AM 10 instruction. Again, all four defendants are charged with
11 racketeering conspiracy, which I'll define for you at the end
12 of the case. Two others are also charged with drug conspiracy,
13 which I'll also define.

14 To prove a racketeering conspiracy, the government has
15 to prove beyond a reasonable doubt a number of those things.
16 One of those things is that the defendant in question agreed to
17 or intended that one or more members of the racketeering
18 enterprise would commit two or more racketeering acts.

19 Basically, and in summary form, racketeering acts are
09:21AM 20 crimes, certain defined crimes under federal and state law.
21 The indictment here charges specific racketeering acts, it
22 charges specific murders, attempted murders, drug trafficking,
23 and so on. It does not charge any firearms crimes as
24 racketeering acts.

25 There are different types of firearm crimes. For

1 example, possession of a firearm without a license is a crime,
2 but that crime is not charged in the indictment, either by
3 itself or as part of the racketeering conspiracy.

4 I'm permit you to hear this evidence for whatever
5 weight you choose to give it in terms of the overall proof of
6 the racketeering enterprise, but just to be clear, this
7 defendant is not charged with a firearms crime, and no firearm
8 crime is charged as a racketeering act.

9 All right, Ms. Lawrence.

09:22AM 10 MS. LAWRENCE: Thank you, your Honor.

11 Q. Trooper Riley, showing you what's been marked as
12 Exhibit 69, do you recognize this?

13 A. I do.

14 Q. And what is it, please?

15 A. It is a Ruger 9 millimeter handgun, and it's the handgun
16 that was taken off of Mr. Argueta.

17 MS. LAWRENCE: Thank you. Permission to publish to
18 the jury, your Honor?

19 THE COURT: Well, it has to be admitted first.

09:22AM 20 MS. LAWRENCE: I'm sorry. Move to admit Exhibit 69.

21 MR. IOVIENO: Same objection, your Honor.

22 THE COURT: Overruled. It's admitted.

23 (Exhibit No. 69 received into evidence.)

24 MS. LAWRENCE: No further questions, your Honor.

25 THE COURT: Mr. Iovieno.

1 CROSS-EXAMINATION

2 BY MR. IOVIENO:

3 Q. Good morning, Trooper Riley.

4 A. Good morning, sir.

5 Q. My name is Thomas Iovieno. I represent Mr. Larios. You
6 testified that you were provided information that led you to
7 this area?

8 A. Yes, sir.

9 Q. And that information was provided to you by another
09:23AM 10 trooper?

11 A. Yes, sir.

12 Q. And he indicated that the -- there was a confidential
13 informant inside the restaurant with Mr. Larios?

14 A. Yes, sir.

15 Q. And he reported that Mr. Larios had a firearm?

16 A. Yes, sir.

17 Q. And that confidential informant, do you know he was
18 identified as confidential informant CW-1? Do you know that?

19 A. I believe so. Yes, sir.

09:23AM 20 Q. And he's known as Pelon?

21 A. Yes, sir.

22 Q. And you're familiar with that name, correct?

23 A. Yes, sir.

24 Q. And did the trooper tell you that Pelon had given the
25 firearm to Mr. Larios?

1 MS. LAWRENCE: Objection, your Honor.

2 THE COURT: Sustained.

3 Q. In any event, you recovered the firearm from Mr. Larios,
4 and is it fair to say that the firearm was -- did not contain
5 any ammunition?

6 A. Yes, sir. It did not.

7 Q. No bullets in the chamber, nor was there a magazine inside
8 the firearm, correct?

9 A. That is correct, sir.

09:24AM 10 Q. And you subsequently charged Mr. Larios with possession of
11 a firearm in the Chelsea District Court?

12 A. I believe so. Yes, sir.

13 Q. And that case was dismissed?

14 A. I don't know the disposition.

15 MR. IOVIENO: All right. Thank you. No further
16 questions.

17 THE COURT: Anything else?

18 MR. NORKUNAS: No, your Honor.

19 THE COURT: Any redirect?

09:24AM 20 MS. LAWRENCE: No redirect, your Honor.

21 THE COURT: All right. Thank you. You may step down.

22 THE WITNESS: Thank you, your Honor.

23 THE COURT: Ms. Lawrence.

24 MS. LAWRENCE: The government calls Carlos Rivera.

25 Your Honor, I'd like to take a witness out of order if

1 it's okay. We're going to call instead Robert Impemba.

2 ROBERT IMPEMBA, having been duly sworn by the Clerk,
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MS. LAWRENCE:

6 Q. Good morning.

7 A. Good morning.

8 Q. Can you please state and spell your name for the jury,
9 please.

09:25AM 10 A. Yes, Robert Impeba, I-m-p-e-m-b-a.

11 Q. Where do you work?

12 A. I'm employed by the City of Revere, the Revere Police
13 Department.

14 Q. What is your title?

15 A. I'm a sergeant detective responsible for the supervision
16 of the narcotics in the gang unit.

17 Q. Sergeant Detective Impemba, how long have you worked with
18 the Revere Police Department?

19 A. I'm in my 13th year.

09:26AM 20 Q. And what kind of work do you do as part of the narcotics
21 and gang unit?

22 A. On the narcotics end, we do a lot of street level
23 narcotics, distribution monitoring, prepare search warrants,
24 undercover buys, confidential informant buys. On the gang
25 side, we typically conduct FIOs, identify any impact players in

1 our neighborhoods and try to disrupt any street level gang
2 activity or youth violence.

3 Q. Do you have any other assignments outside the Revere
4 Police Department?

5 A. No. I'm assigned to the -- I'm sorry, I do. I'm assigned
6 to the FBI North Shore Gang Task Force as part of my
7 responsibilities with the Revere Police Department.

8 Q. And as part of your work with the North Shore Gang Task
9 Force or the Revere Police Department, are you familiar with a
09:26AM 10 street gang called MS-13?

11 A. Yes, I am.

12 Q. And have you personally participated in investigative
13 activities related to MS-13?

14 A. Yes, I have.

15 Q. What kinds of things have you done in connection with that
16 investigation?

17 A. We've assisted in controlled narcotics purchases,
18 surveillance, search warrants, that type of stuff.

19 Q. I'm going to turn your attention to May 20, 2016. Did you
09:27AM 20 participate in the execution of a search warrant on that day?

21 A. May 20, 2016 was a consent search. Yes.

22 Q. And how did you get involved in that search?

23 A. I was notified by one of the agents on my task force that
24 he had a location in Revere that he wanted to go to after
25 receiving information to search a certain area.

1 Q. Do you remember the address of the location?

2 A. I do, it was 538-540 Beach Street in Revere.

3 Q. Was that address significant to you?

4 A. Yes.

5 Q. Why?

6 A. During a series of arrests that we made relevant to an
7 investigation, it was one of the target locations.

8 Q. Okay. Do you know who lived there?

9 A. I do.

09:27AM 10 Q. Who was that?

11 A. It was an individual identified as Jose Hernandez-Miguel.

12 Q. Do you know him by other name?

13 A. I do, Muerto.

14 Q. And after you got the call telling you that you wanted to
15 search that location, what did you do?

16 A. I met the agents along with a couple of Mass. State Police
17 troopers assigned to my task force at that location.

18 Q. And did you search that location?

19 A. Yes, I was involved in the search of the basement area of
09:28AM 20 that location.

21 Q. And I believe you said earlier you had consent to search?

22 A. Yes, the agents assigned to my task force received consent
23 prior to responding to that address, and I believe they had the
24 building manager fill out a consent form.

25 Q. And can you describe the search, please, and what you did?

1 A. Basically, we responded directly to the common area
2 basement on the bottom level, ground level of 538-540
3 Beach Street, and I had a very specific location that we were
4 directing our attention towards. It was under a set of stairs
5 leading into the basement.

6 Q. And did you find anything there?

7 A. Yes, we did.

8 Q. What was that?

9 A. We found a silver, grayish-type cooler bag almost, if you
09:29AM 10 will, that contained a semiautomatic firearm and numerous
11 rounds of ammunition.

12 Q. What did you do with that, those items after you found
13 them?

14 A. Those items were taken into our possession, brought back
15 to the Revere police station and then turned over to the Mass.
16 State Police.

17 MS. LAWRENCE: Permission to approach?

18 MR. IOVIENO: Judge, for the record, could we have a
19 continuing objection to this line?

09:29AM 20 THE COURT: Yes.

21 Q. Sergeant Detective Impemba, I'm showing you what's been
22 marked as Exhibit 51. Do you recognize this?

23 A. Yes, I do.

24 Q. What is it?

25 A. This is the semiautomatic firearm that we located under

1 the basement stairs of 538-540 Beach Street.

2 Q. And I'm showing you what's been marked as Exhibit 52.

3 A. Yes.

4 Q. 53 and 54. What are these items, if you know?

5 A. These are two boxes of 9 millimeter ammunition that were
6 located inside the bag, as well as a plastic bag containing
7 several round of .45 caliber ammunition.

8 MS. LAWRENCE: Your Honor, I move to admit Exhibit 51,
9 52, 53 and 54 into evidence.

09:30AM 10 THE COURT: All right. They're admitted.

11 (Exhibit Nos. 51, 52, 53 and 54 received into
12 evidence.)

13 MS. LAWRENCE: Permission to publish?

14 THE COURT: Yes.

15 MS. LAWRENCE: No further questions.

16 THE COURT: All right. Cross-examination.

17 MR. IOVIENO: No questions, your Honor.

18 MR. NORKUNAS: No.

19 THE COURT: Okay. All right. You may step down.

09:31AM 20 Thank you.

21 Ms. Lawrence.

22 MS. LAWRENCE: Your Honor, the government would call
23 Carlos Rivera.

24 CARLOS RIVERA, having been duly sworn by the Clerk,
25 testified as follows:

1 DIRECT EXAMINATION

2 BY MS. LAWRENCE:

3 Q. Good morning.

4 A. Good morning.

5 Q. Can you please state and spell your name for the jury.

6 A. Carlos Rivera, R-i-v-e-r-a.

7 Q. Where are you employed?

8 A. I'm employed with the Massachusetts State Police.

9 Q. What's your title there?

09:32AM 10 A. I'm a trooper assigned to the Violent Fugitive
11 Apprehension Task Force.

12 Q. Trooper Rivera, can you explain what the Violent Fugitive
13 Apprehension Task Force is?

14 A. We basically look for individuals wanted on violent felony
15 warrants in and out of Massachusetts.

16 Q. Turning your attention to September 16, 2016, did you
17 arrest a fugitive on that day?

18 A. Yes, I did.

19 Q. How did you get involved?

09:32AM 20 A. I'm sorry, ma'am.

21 Q. How did you get involved?

22 A. I received information from one of my counterparts in the
23 Boston area about an investigation he was helping the State
24 Police and FBI gang unit and led information of possible
25 subject associated with the wanted person out in the Pittsfield

1 area.

2 Q. And wanted person is -- can you explain what a wanted
3 person is?

4 A. He was warranted on a federal warrant for a RICO
5 conspiracy along with other charges.

6 Q. Do you remember the individual's name?

7 A. Efrain Vasques-Yanes.

8 Q. Okay. When you learned information -- when you got the
9 information that Mr. Vasques-Yanes might be located in the
09:33AM 10 Pittsfield area, what did you do?

11 A. I basically advised the task force members of the
12 information we assembled. I gathered some more information of
13 my own and we basically went to the address to try and attempt
14 to locate the subject.

15 Q. What did you do when you arrived at the address?

16 A. We basically showed the photo of the possible subject in
17 case we encountered someone in or around the house. We
18 basically did a perimeter around the house to make sure the
19 person didn't escape if he decided to see police, and we
09:34AM 20 confirmed the address as a person of interest that he was
21 associated with living at the house.

22 Q. Do you remember what that address was?

23 A. It was 226 Bradford Street in Pittsfield.

24 Q. Okay. So after you secured the perimeter, what did you
25 do?

1 A. We entered the -- it's a two-sided duplex. We found the
2 226, looked at the mailbox, and saw the name associated with
3 Vasques-Yanes and at that point decided to knock at the door.

4 Q. Did anyone answer?

5 A. Yes.

6 Q. What happened then?

7 A. There was a male that answered the door after a few
8 minutes, broken English. I asked what the name was in English,
9 and he gave his last name as being Flores and was a little

09:35AM 10 hesitant to give me his first name. I saw he might have been a
11 little hesitant because of the language barrier, so I asked him
12 again in Spanish what the last name of the residence was.

13 Q. So you speak Spanish?

14 A. Yes, I do.

15 Q. Did you continue the conversation with him in Spanish?

16 A. Yes, I did.

17 Q. And what did you say to him next?

18 A. I advised I was looking for Ms. Yasmin Hernandez, which
19 was a person associated with the target. He stated that she
09:35AM 20 did live at the house and was unsure if she was inside the
21 apartment or not.

22 Q. So what did you do next?

23 A. We asked to come in and talk to him and possibly talk to
24 Yasmin if she was there. We basically entered, and then at
25 that point he started becoming elusive in regards to his

1 answers when we're asking if she was upstairs, if she was in
2 the house. At that point, we basically started getting a
3 little suspicious.

4 Q. And based on your suspicions, what did you do?

5 A. We advised him that we were going to make sure that Yasmin
6 was inside the house, do a protective sweep, and see if anyone
7 else -- he also did advise that he did have a brother that was
8 sleeping upstairs possibly on the third floor.

9 Q. So did you conduct that protective sweep of the house?

09:36AM 10 A. The other officers did conduct a protective sweep as I
11 continued talking to Mr. Flores, and as I started talking to
12 him, I noticed some markings on his sleeve like a tattoo. I
13 started asking, you know, what the tattoo was, and he started
14 covering up his arms as he couldn't produce any proper
15 identification when we asked him his actual name.

16 Q. And his actions, what did his actions cause you to do
17 next?

18 MR. MURPHY: Objection, your Honor.

19 THE COURT: Overruled.

09:36AM 20 MR. MURPHY: Just relevance.

21 THE COURT: Okay. Overruled.

22 MR. MURPHY: Thank you.

23 A. It was a little suspicious, because of the fact we were
24 looking for someone that was wanted on gang activity charges
25 from the Boston area, and in my experience, the way he was

1 answering my questions was being a little elusive, so for my
2 safety and the protection of the other officers that were
3 inside, I decided to place him in handcuffs just for -- until
4 we identified who he actually was.

5 Q. And did you learn any information from the officers
6 who -- actually, let me ask you this. Can you describe what a
7 protective sweep is?

8 A. Protective sweep is just looking inside the house to make
9 sure no one else is hiding in any location. That's for our
09:37AM 10 safety.

11 Q. And you said, while you were speaking with this
12 individual, other officers were conducting the protective
13 sweep?

14 A. Yes, ma'am.

15 Q. Did they find anyone or anything?

16 A. Yes, as I was talking to the gentleman on the first floor,
17 they advised that they had seen a gentleman on the third floor
18 peek down the stairs and then go out of view still on the third
19 floor walking around.

09:37AM 20 Q. So what did you do with that information?

21 A. At that point, the gentleman on the first floor was
22 already secured in handcuffs, trying to get his identity. The
23 officers upstairs were trying to call the individual down to,
24 you know, make sure that they knew who he was and go from
25 there.

1 Q. Did you speak with that individual eventually?

2 A. Eventually, yes. Once the individual came down, they
3 secured him in handcuffs to make sure and then walked him
4 downstairs and he had given a different name from the person we
5 were looking for.

6 Q. Trooper Rivera --

7 MS. LAWRENCE: This is for the witness only, please.

8 Q. I'm showing you what has been marked as Exhibit 11. Do
9 you recognize the person in this photo?

09:38AM 10 A. Yes, ma'am.

11 Q. Who is he?

12 A. That's the subject, Efrain Vasques-Yanes that we were
13 looking for.

14 Q. And did you recognize him when he was brought downstairs?

15 A. I did. I asked him what his name was. He gave me the
16 alias name. I believe the last name was Hernandez, and at that
17 point I turned the photo to him, and I said, "Who's this?" At
18 that point, he -

19 Q. I'm sorry, excuse me, what was on the phone -- the photo,
09:39AM 20 sorry.

21 A. The photo I had on my paperwork, I flipped it over to him,
22 and I asked him, "Who is this?" At that point, he smiled, And
23 he basically says, "Okay, you got me," and then he stated his
24 name was Efrain Vasques-Yanes.

25 MS. LAWRENCE: Your Honor, I'd move to admit

1 Exhibit 11 into evidence.

2 MR. MURPHY: Objection, relevance, your Honor.

3 THE COURT: Overruled. It's admitted, Exhibit 11.

4 (Exhibit No. 11 received into evidence.)

5 Q. So you mentioned that you had Mr. Vasques-Yanes in
6 handcuffs?

7 A. Correct.

8 Q. At that point. Did you find anything else during the
9 protective sweep?

09:39AM 10 A. The two gentlemen were downstairs. There seemed to be
11 more rooms that were in the house. It's a three-level duplex.
12 So as they stayed downstairs, I continued assisting the
13 officers upstairs, and it appeared that on the third deck where
14 the subject was hiding or at least located, there seemed to be
15 things out of place that looked like he was attempting to hide
16 something.

17 Q. Did you see anything in particular that was suspicious to
18 you?

19 A. There was a bright green sweater that was folded in a
09:40AM 20 manner consistent and very quickly as to try to conceal
21 something from our view.

22 Q. Okay. And did you take that item or look at it more
23 closely at that time?

24 A. I did not. We had information from the officers and
25 detectives out here that he was known to carry and was supposed

1 to be carrying a firearm with him at all times due to the
2 propensity of violence and the threats that he has been getting
3 and giving.

4 Q. So what did you do?

5 A. We at that point decided to secure the apartment or the
6 duplex. I contacted the attorneys and the FBI investigators
7 involved in this area. I advised them what we had, and we
8 basically waited for a search warrant.

9 Q. Did you eventually get a search warrant?

09:41AM 10 A. Yes, we did.

11 Q. Did you execute that search warrant?

12 A. Yes, we did.

13 Q. Did you find anything when you executed the search
14 warrant?

15 A. Yes, ma'am.

16 Q. What did you find?

17 A. We actually were able to find a firearm that was inside
18 that bright green sweatshirt along with a lot of ammunition,
19 along with false documents of the name that he had given to
09:41AM 20 police officers, some knives and a machete.

21 MS. LAWRENCE: Permission to approach the witness,
22 your Honor.

23 THE COURT: Yes.

24 Q. Trooper Rivera, I'm showing you what has been marked as
25 Exhibit 82.1. Do you recognize this?

1 A. I do.

2 Q. What is it?

3 A. That is basically a black semiautomatic handgun that we
4 located that day.

5 Q. Okay. Where was it located when you recovered it?

6 A. That was inside the bright green sweatshirt.

7 Q. Okay. I'm also showing what has been marked as Exhibits
8 82.3 and 82.2. Do you recognize these?

9 A. That is the clip that was inside and these are the rounds
09:42AM 10 that's marked as .45 caliber rounds that were inside the
11 magazine.

12 Q. Okay. All wrapped up in the sweatshirt?

13 A. Yes, ma'am.

14 MS. LAWRENCE: I move to admit Exhibit 82.1, .2 and .3
15 into evidence.

16 MR. MURPHY: Your Honor, may we have a continuing
17 objection on relevance to the --

18 THE COURT: Yes.

19 MR. MURPHY: Thank you.

09:43AM 20 THE COURT: Overruled. 82.1, 82.2, 82.3 are admitted.
21 (Exhibit Nos. 82.1, 82.2 and 82.3 received into
22 evidence.)

23 MS. LAWRENCE: Permission to publish?

24 THE COURT: Yes.

25 Q. I'm showing you now what's been marked as Exhibit 83.1.

1 A. Yes, ma'am.

2 Q. 84?

3 A. Yes, ma'am.

4 Q. And 86.

5 A. Yes, ma'am.

6 Q. Okay. Do you recognize these items?

7 A. I do. Those are items that were seized with the firearm.
8 It's basically ammunition for the .45 that we took into
9 evidence.

09:44AM 10 Q. Is this chewing gum?

11 A. It is not chewing gum. It's pretty much a deception to
12 make believe it's chewing gum, but there's actually rounds
13 inside.

14 Q. And were these wrapped up in the sweatshirt or found
15 somewhere else?

16 A. I believe everything was with the firearm and sweatshirt.

17 MS. LAWRENCE: Your Honor, I move to admit
18 Exhibit 83.1, 84, and 86 into evidence.

19 THE COURT: They're admitted, 83.1, 84, and 86.

20 (Exhibit Nos. 83.1, 84, and 86 received into
21 evidence.)

22 Q. Trooper Rivera, showing you what's been marked as
23 Exhibit 87, do you recognize this item?

24 A. Yes, ma'am.

25 Q. What is that?

1 A. That is a butterfly knife that was located inside the
2 apartment.

3 Q. And by butterfly, what do you mean?

4 A. It easily opens in a fashion that would make it look very
5 flashy.

6 Q. And where did you find this, if you remember?

7 A. I believe it was on the third floor.

8 Q. Okay.

9 MS. LAWRENCE: Your Honor, I'd move to admit Exhibit
09:45AM 10 87 into evidence.

11 THE COURT: All right. It's admitted, 87.

12 (Exhibit No. 87 received into evidence.)

13 Q. I'm showing you what's been marked as Exhibit 85. Do you
14 recognize this?

15 A. I do.

16 Q. And what is it?

17 A. That is a machete.

18 Q. And where did you find this?

19 A. That was located downstairs, I believe, in a closet on the
09:46AM 20 first floor.

21 MS. LAWRENCE: Okay. Your Honor, I'd move to admit
22 Exhibit 85 into evidence.

23 THE COURT: All right. It's admitted. 85.

24 (Exhibit No. 85 received into evidence.)

25 Q. Trooper Rivera, do you know Mr. Efrain Yanes-Vasques by

1 another name?

2 A. Just the name that he had given officers. I don't recall
3 the actual first name, but I know the last name was Hernandez.
4 I'd have to refer to my report to get the exact.

5 MS. LAWRENCE: No further questions for this witness,
6 your Honor.

7 THE COURT: Cross?

8 MR. IOVIENO: Nothing, your Honor.

9 MR. NORKUNAS: No.

09:46AM 10 THE COURT: Okay. Thank you. You may step down.

11 THE WITNESS: Thank you, sir.

12 MS. LAWRENCE: The government calls Michael Capasso.

13 MICHAEL CAPASSO, having been duly sworn by the Clerk,
14 testified as follows:

15 THE WITNESS: Good morning, your Honor.

16 DIRECT EXAMINATION

17 BY MS. LAWRENCE:

18 Q. Good morning.

19 A. Good morning.

09:47AM 20 Q. Could you please say and spell your name for the jury?

21 A. My name is Michael Capasso. And did you say spell it?

22 Q. Just the last name.

23 A. C-a-p-a-s-s-o.

24 Q. And where do you work?

25 A. Somerville Police Department.

1 Q. Do you have a title?

2 A. I do.

3 Q. What is it?

4 A. Detective sergeant.

5 Q. How long have you worked for the Somerville Police
6 Department?

7 A. Ten years.

8 Q. And what is your current assignment?

9 A. My current assignment is the gang unit supervisor.

09:48AM 10 Q. Have you held other assignments with the Somerville Police
11 Department?

12 A. I have.

13 Q. And what are those?

14 A. Patrol officer and narcotics detective.

15 Q. Focusing on January 2015, what kind of police work were
16 you doing at that time?

17 A. I was assigned to the patrol unit.

18 Q. And what kinds of activities did you do with the patrol
19 unit?

09:48AM 20 A. That was a uniformed division, so I would answer any calls
21 that came into the 9-1-1 center, whether they be emergency or
22 just calls for service.

23 Q. Were you working on the night of January 1, 2015?

24 A. I was.

25 Q. Did you take a call that night?

1 A. Yes.

2 Q. And where did you go?

3 A. 7 Cross Street.

4 Q. And why did you go to 7 Cross Street?

5 A. We received an unknown trouble 9-1-1 call.

6 Q. Okay. What did you do when you responded to
7 7 Cross Street?

8 A. We went to the -- the house that we went to was a third --
9 apartment number 3. We entered the house with -- I entered the
09:49AM 10 house with two of my fellow police officers.

11 Q. And what did you do when you arrived at the third floor
12 apartment?

13 A. When I entered the house, I observed a Hispanic male
14 sitting on the couch who was pointing to a bedroom door.

15 Q. Did you talk to him?

16 A. I did not, no.

17 Q. Did anyone else talk to him?

18 A. Yes, one of my colleagues.

19 Q. Did they say anything?

09:49AM 20 A. They did have a conversation, which we later discovered.
21 Would you like me to --

22 Q. No, no. You said he was pointing at a door?

23 A. Correct.

24 Q. And what did you do when you saw him pointing at the door?

25 A. I knocked on the door.

1 Q. What happened?

2 A. After a brief delay, I heard the door lock.

3 Q. Did anyone speak on the other side of the door?

4 A. No.

5 Q. You heard the door lock. What did you do next?

6 A. As soon as I heard the door lock, I heard somebody running
7 away from the door. At that point, I announced to my partner
8 that I was going to force open the door due to the fact that we
9 were there for unknown trouble, and I did not know what was
09:50AM 10 going on behind that now locked door.

11 Q. Did you force the door open?

12 A. No, I did not.

13 Q. Why?

14 A. Because as I was about to force the door, a female opened
15 the door ever so slightly with just enough room that her head
16 popped out.

17 Q. Did you speak to her?

18 A. No, one of my colleagues did.

19 Q. Why didn't you talk to her?

09:50AM 20 A. She did not speak English, and I don't have any bilingual
21 skills.

22 Q. And your colleague did speak Spanish?

23 A. Yes, he's now Lieutenant Jaliveira (ph.), he spoke to her
24 in Spanish.

25 Q. Okay. After he spoke to her, what happened?

1 A. We entered the bedroom to do a protective sweep. Again,
2 based on the unknown trouble call, we needed to make sure that
3 nobody was in there that needed any medical assistance or was
4 injured.

5 Q. And when you entered the bedroom, what did you see?

6 MR. MURPHY: Objection. Relevance. And may we have a
7 continuing objection?

8 THE COURT: Overruled. And, yes, you may have a
9 continuing objection.

09:51AM 10 MR. MURPHY: Thank you, your Honor.

11 Q. When you entered the bedroom, what did you see, Sergeant
12 Detective Capasso?

13 A. On the right-hand side of the room, I saw a bed with an
14 infant crying, and I saw behind the bed was a walk-in closet
15 with the lights on with no door, and on the left-hand side, I
16 saw an opened window with a blanket blowing due to the frigid
17 cold and the wind blowing the blanket open.

18 Q. Were there any other individuals in the room besides the
19 baby and the woman who let you in?

09:51AM 20 A. Yes, there was.

21 Q. Who?

22 A. Jose Andrade.

23 Q. Where was he located?

24 A. Jose was directly across from the window laying kind of
25 sideways with his feet on the ground and his upper torso on the

1 bed itself near the baby.

2 MS. LAWRENCE: Could I have Exhibit 14 for the
3 witness, please.

4 Q. Sergeant Detective Capasso, do you recognize the person in
5 this photograph?

6 A. Yes, I do.

7 Q. And who is it?

8 A. That would be Mr. Andrade.

9 Q. The person you said was in the bedroom that evening?

09:52AM 10 A. Correct.

11 MS. LAWRENCE: I move to admit Exhibit 14 into
12 evidence, your Honor.

13 THE COURT: This is Exhibit 14?

14 MS. LAWRENCE: Yes, it is.

15 THE COURT: Yes, it's admitted, 14.

16 (Exhibit No. 14 received into evidence.)

17 Q. What did you do after you entered the room and observed
18 the window open, Mr. Andrade on the bed?

19 A. I went up to Mr. Andrade and conducted a pat frisk of his
09:52AM 20 person to make sure he was not concealing any weapons.

21 Q. Was he concealing any weapons?

22 A. No.

23 Q. And what happened after that?

24 A. At that point, I instructed my colleague, Officer Cicerone
25 to wait with Mr. Andrade while I conducted a quick sweep of the

1 walk-in closet to make sure that there was nothing in there
2 that would potentially harm us.

3 Q. Did you find anything in the closet?

4 A. No, I did not.

5 Q. Did you do anything else in the room?

6 A. I did.

7 Q. What?

8 A. I looked out the window because I thought it was odd that
9 the window at the time of night with a sick child crying on the
09:53AM 10 bed would be open with no screen, insect screen, so I popped my
11 head out the window to take a look outside.

12 Q. Why did you think it was odd that the window was open?

13 A. It was 10:40 at night, it was freezing out. I don't
14 remember exactly how cold, but it was uncomfortably cold out,
15 and due to the fact that the baby was sick, according to the
16 mom, it didn't make any sense for a window to be opened at that
17 time of night with the cold.

18 Q. When you popped your head out the window, did you see
19 anything?

09:53AM 20 A. I did.

21 Q. What did you see?

22 A. I could see the side yard of a house leading to the
23 backyard of the house that was across the street.

24 Q. But you didn't see -- was that unusual for you to look out
25 the window and see the side of the house?

1 A. No, no.

2 Q. Okay. What did you do after you looked out the window?

3 A. I advised my colleagues that I believed Mr. Andrade had
4 possibly thrown something out the window, and I was going to go
5 outside and check.

6 Q. Okay. And did you go check?

7 A. I did.

8 Q. Okay. Describe where you went after you left the bedroom.

9 A. So when I was still in the room, I had looked outside,
09:54AM 10 obviously, to find out where I was based on where the window
11 was and straight down. So I went to that spot outside, looked
12 up, confirmed that it was the same exact spot that I had been
13 looking out.

14 Q. Okay. And when you were outside, did you find anything?

15 A. I did find -- I found a firearm resting on top of a pile
16 of leaves.

17 MS. LAWRENCE: Exhibit 45 for the witness, please.

18 THE WITNESS: I'm sorry, could you repeat that?

19 MS. LAWRENCE: I was just bringing up a picture.

09:54AM 20 Q. Sergeant Detective Capasso, do you recognize this
21 photograph?

22 A. Yes, I do.

23 Q. And what is it?

24 A. That would be the firearm that I located on the side of
25 the house.

1 MS. LAWRENCE: Your Honor, at this time I move to
2 admit Exhibit 45 into evidence.

3 MR. IOVIENO: I object, your Honor.

4 THE COURT: That's this photo?

5 MS. LAWRENCE: Yes, it is.

6 THE COURT: All right. Overruled. It's admitted.
7 45.

8 (Exhibit No. 45 received into evidence.)

9 Q. What did you do when you saw the gun lying on top of the
09:55AM 10 leaves?

11 A. I yelled out to my colleagues that I located a firearm,
12 and subsequently they went upstairs and placed Mr. Andrade in
13 our custody.

14 Q. Okay. And what did you do with the firearm?

15 A. I contacted Detective Thermidor from the Somerville Police
16 Criminal Investigation Division. He came by and photographed
17 the firearm.

18 MS. LAWRENCE: Permission to approach, your Honor?

19 THE COURT: Yes.

09:55AM 20 Q. Sergeant Detective Capasso, I'm showing you what's been
21 marked as Exhibit 46.1, 46.2 and 46.3. Do you recognize these
22 objects?

23 A. I do.

24 Q. What are they?

25 A. That would be the firearm and the magazine from the back

1 yard. It's okay to open these?

2 Q. You can open them, if you like.

3 A. Ammunition. Yeah.

4 MS. LAWRENCE: The government moves to admit 46.1, .2,
5 and .3 into evidence.

6 THE COURT: They're admitted, 46.1, 46.2, 46.3.

7 (Exhibit Nos. 46.1, 46.2 and 46.3 received into
8 evidence.)

9 Q. Sergeant Detective Capasso, did you know Mr. Andrade by
09:56AM 10 any other name?

11 A. I believe that he went by an alias name as "Triste," and I
12 heard rumors that --

13 MR. IOVIENO: Objection.

14 THE COURT: Sustained. Stop there.

15 MS. LAWRENCE: Thank you. No further questions, your
16 Honor.

17 THE COURT: Any cross?

18 MR. IOVIENO: No, your Honor.

19 THE COURT: All right. You may step down.

09:56AM 20 THE WITNESS: Thank you, your Honor.

21 MR. POHL: Your Honor, at this time the government
22 calls Star Chung.

23 STAR CHUNG, having been duly sworn by the Clerk,
24 testified as follows:

25 THE WITNESS: Good morning, your Honor.

1 MR. POHL: May I inquire, your Honor?

2 THE COURT: Yes.

3 MR. POHL: Thank you.

4 DIRECT EXAMINATION

5 BY MR. POHL:

6 Q. Good morning.

7 A. Good morning, sir.

8 Q. Can you please introduce yourself to the ladies and
9 gentlemen of the jury?

09:58AM 10 A. Yes. Good morning, jurors. My name is Officer
11 Star Chung.

12 Q. Could you spell your last name for the record?

13 A. Yes, C-h-u-n, as in November, g.

14 Q. Where do you work?

15 A. Chelsea Police Department.

16 Q. How long have you worked for the Chelsea Police
17 Department?

18 A. Eight years now, sir.

19 Q. And what is your current assignment, Officer Chung?

09:58AM 20 A. I'm in patrol, I work overnights.

21 Q. From when to when?

22 A. 11:30 at night to 7:30 in the morning.

23 Q. Officer Chung, let me direct your attention to
24 December 14, 2014. Do you remember if you were working on that
25 date?

1 A. Yes.

2 Q. All right. Let me direct your attention to the early
3 morning hours of December 14, 2014. Do you remember, did you
4 receive a radio call?

5 A. Yes.

6 Q. And what was the radio call for?

7 A. It was a call for a victim of a gunshot wound, shots
8 fired.

9 Q. Okay. And do you remember where the shots fired call
09:59AM 10 directed you to go?

11 A. Yes, an address on Chester Avenue.

12 Q. Okay. And what did you do when you got the radio call?

13 A. I began responding to the scene.

14 Q. And you pull up to -- is there a particular address on
15 Chester Avenue that you pulled up to, Officer Chung?

16 A. Yes, 60 Chester Avenue specifically was called in for
17 Apartment Number 2.

18 Q. Now, let me ask you, Officer Chung, we're talking about
19 December 14, 2014. Before that date, before December 14, 2014,
09:59AM 20 were you familiar with that address, 60 Chester Avenue?

21 A. Yes, sir.

22 MR. MURPHY: Objection, your Honor.

23 THE COURT: Sustained.

24 Q. All right. Officer Chung, you pulled up, got to
25 60 Chester Avenue. Why don't tell the ladies and gentlemen of

1 the jury what you saw when you pulled up.

2 A. Upon my approach, there was a male party out in the front
3 area of said address. When I pulled up, I noticed that he was
4 holding onto his left pectoral area.

5 Q. What did you do when you saw that?

6 A. At that point, I asked him if he was hurt, if he's been
7 shot due to the nature of the call, in which -- at that point I
8 lifted up his shirt and could see that there was a gunshot
9 wound.

10:00AM 10 Q. What did you do next?

11 MR. MURPHY: Objection, your Honor, relevance. And
12 again, may we have a continuing objection to this subject
13 matter?

14 THE COURT: Yes, overruled, and you may have the
15 continuing objection.

16 MR. MURPHY: Thank you.

17 Q. Officer Chung, you lifted up the individual's shirt,
18 correct?

19 A. Yes, sir.

10:00AM 20 Q. Saw he had a gunshot wound?

21 A. Yes, sir.

22 Q. What's the next thing that you did?

23 A. I hailed for EMS Cataldo for medical aid.

24 MS. LAWRENCE: And can we have Exhibit 34.1 for the
25 witness, please.

1 Q. All right. So, Officer Chung, do you see the photograph
2 in front of you on your screen?

3 A. Yes, sir.

4 Q. Do you recognize that location?

5 A. 60 Chester Ave.

6 Q. Okay. And I'm going to quickly walk you through a series
7 of photographs that follow that I think you reviewed before
8 your testimony here today. I want you to quickly take a look
9 at them.

10:02AM 10 Have you seen those pictures before your testimony
11 here today?

12 A. Yes.

13 Q. All right. Do you recognize those?

14 A. Yes.

15 Q. And how do you recognize them?

16 A. I was there on scene that night.

17 Q. Those pictures are from -- do they accurately depict
18 60 Chester Avenue, Apartment 2 as you saw it on December 14,
19 2014?

10:02AM 20 A. Absolutely.

21 MR. POHL: All right. I'd move to admit Exhibits 34.1
22 through 34.17 and ask your permission to publish to the jury,
23 your Honor.

24 MR. MURPHY: Same objection, your Honor.

25 THE COURT: All right. Overruled. They're admitted.

1 34.1 through 34.17.

2 (Exhibit Nos. 34.1 through 34.17 received into
3 evidence.)

4 Q. All right. Officer Chung, why don't you take us through
5 these pictures as you were there that night. On -- what are we
6 looking here with 34.1? It's the first picture in the
7 sequence. What's this?

8 A. This is the front area to 60 Chester Ave.

9 Q. All right. So where -- I think you testified a moment ago
10:03AM 10 about the person you encountered who had a gunshot wound to his
11 chest. Where was that person when you pulled up to 60 Chester
12 Ave.?

13 A. He was actually on the center steps to the left of
14 60 Chester Ave.

15 Q. So just out of view of this photo?

16 A. Yes.

17 Q. All right. And when you pulled up to 60 Chester Avenue,
18 how did you and -- where did the person with the gunshot wound,
19 did you walk to him, did he walk to you? What happened?

10:03AM 20 A. As soon as we arrived and he saw us, he immediately went
21 to his feet and went to us to seek for help. Now, we met right
22 in the middle where 60 Chester Ave. was.

23 Q. Okay. And did you have a conversation with that
24 individual?

25 A. Yes.

1 Q. Did you later learn his name?

2 A. Yes.

3 Q. And what was his name?

4 A. His name was Saul Rivera.

5 Q. And based on that conversation that you had with
6 Mr. Rivera, what did you try to do next?

7 A. At that point, I applied pressure to his wound while we
8 were waiting for Cataldo. He also informed us of what
9 occurred, and then at that point through the authorization of
10:04AM 10 our street supervisor, we attempted to make entry to the front
11 common door.

12 Q. Of 60 Chester Ave.?

13 A. Yes, sir.

14 Q. And why did you want to go inside 60 Chester Avenue?

15 A. Because Saul said that there were other -- possible other
16 victims upstairs who were also shot.

17 Q. Okay. The front door that you were talking about is --
18 you can actually -- Officer Chung, you can actually draw on it
19 with your finger on the screen.

10:04AM 20 A. Yes.

21 Q. What's the 60 Chester Avenue front door that you're
22 talking about?

23 A. (Witness drawing on diagram)

24 Q. Right there, okay. Thank you. When you got to the front
25 door of 60 Chester Avenue and you tried to go inside, what

1 happened?

2 A. The door was locked.

3 Q. What did you do?

4 A. At that point, we hailed for the fire department to come
5 by to assist in the forced entry.

6 Q. Did you get inside the door?

7 A. Yes, sir.

8 Q. All right. When you got inside the door, what did you
9 see?

10:05AM 10 A. Trails of blood.

11 Q. All right. So let's go through some of these pictures
12 quickly. Let's go to 2. All right. What do you see here,
13 Officer Chung?

14 A. I see, again, the front steps of 60 Chester Ave. and some
15 blood particles.

16 Q. Okay. 3.

17 A. This is the other view to 60 Chester Ave. and also there
18 are some blood droplets there.

19 Q. 4.

10:05AM 20 A. A closer zoomed in view of 60 Chester Ave. front steps
21 with the blood droplets.

22 Q. 5, please. Is this the front door?

23 A. The front door now ajarred with the -- some blood droplets
24 on the door.

25 Q. 6?

1 A. Closer look of the blood droplets on the door.

2 Q. 7. Where is this, Officer Chung?

3 A. This is as soon as you open the door and you could see the
4 blood droplets of blood.

5 Q. And there's a stairway. That's fine. The next
6 photograph, there's a stairway essentially right as you enter
7 that front door?

8 A. Yes.

9 Q. What did you do when you got to those stairs?

10:06AM 10 A. Due to the possible presence of a firearm, all officers
11 drew our department-issued firearm.

12 Q. Where did you go next?

13 A. At that point, we went up to the second landing.

14 Q. When you got to the -- next photograph, please. Stairs?

15 A. Stairs leading up to the second landing.

16 Q. Down on the left-hand side of the stairs, you see what?

17 A. The left-hand side of the stairs, there's also blood
18 droplets on those steps.

19 Q. All right. So I think I could -- am now caught up to you.

10:07AM 20 This is the second floor landing?

21 A. Yes.

22 Q. What do you see right before the door?

23 A. There's a yellow item there, there's also some blood
24 droplets there.

25 Q. All right. So you said that -- I think you used the word

1 "we," "We drew our service weapons." Were you with other
2 officers at this time?

3 A. Yes, sir.

4 Q. All right. How many officers approached the door to the
5 second floor landing?

6 A. There were three of us, including myself.

7 Q. Okay. And when you got to the second floor landing,
8 Officer Chung, what did you do then?

9 A. At that point actually a female tenant came out from the
10:08AM 10 second, apartment 2.

11 Q. And what happened next?

12 A. That's when my street supervisor, Lieutenant Sanchez,
13 engaged her at the door, spoke to her in Spanish gaining
14 consent to enter. She let us in.

15 Q. All right. So there's three of you. Do you remember the
16 sequence of officers who went in and -- sort of in what order?

17 A. Yes, sir.

18 Q. And what was that?

19 A. It was Lieutenant Sanchez guiding point, Officer Tom Riley
10:08AM 20 in the middle and myself in the rear.

21 Q. Okay. So where did the -- the first two officers that you
22 just mentioned, where did they go in the apartment?

23 A. At that point, they conducted a protective sweep of the
24 apartment, they entered, and they split into the rooms.

25 Q. And looking for what?

1 A. For presence of a weapon, any other suspects hiding,
2 victims.

3 Q. All right. What did you do when you went in the
4 apartment?

5 A. As soon as I entered the apartment, there was a bathroom
6 to my right with the door ajarred, in which I could see a male
7 party lying on the floor.

8 Q. The next photograph, please. Is that the bathroom,
9 Officer?

10:09AM 10 A. Yes, sir.

11 Q. All right. You come in the front door and the bathroom is
12 where?

13 A. To my right, immediate right.

14 Q. All right. Can you tell the ladies and gentlemen of the
15 jury what you're seeing, what you see in the bathroom floor?

16 A. Ladies and gentlemen of the jury, in the bathroom floor
17 here, I saw a male party on the floor in a fetal position,
18 which actually his -- may I?

19 Q. Yes.

10:09AM 20 A. With his head facing this way towards the door.

21 Q. What did you do when you saw the man lying on the
22 bathroom?

23 A. At that point, I immediately engaged him. I checked him
24 for injuries. I noticed that he was not breathing. He was
25 also unconscious. I lifted up his shirt and checked for

1 injuries, and indeed there were gunshot wounds.

2 THE COURT: I'm sorry, Officer, can you -- the mic is
3 very sensitive. If you could just move maybe an inch further
4 away.

5 THE WITNESS: Like this, your Honor?

6 THE COURT: Yes. Thank you.

7 THE WITNESS: No problem, sir.

8 MR. POHL: Thank you, your Honor.

9 Q. All right. Officer Chung, you lifted up the shirt of the
10:10AM 10 man on the bathroom floor?

11 A. Yes.

12 Q. All right. And what did you see?

13 A. Gunshot wounds.

14 Q. What did you do then?

15 A. At that point, I immediately conducted chest compressions
16 and rendered medical aid.

17 Q. The person wasn't breathing?

18 A. No, sir.

19 Q. And how long did you do that for?

10:11AM 20 A. I did it for at least two rounds for chest compressions,
21 which are at 30 intervals.

22 Q. After you had completed doing chest compressions, what
23 happened?

24 A. At that point, Cataldo subsequently came up behind me, and
25 they took over medical aid.

1 Q. Were you present when the -- maybe everybody knows this,
2 maybe they don't. Cataldo are emergency technicians, right?

3 A. Paramedics, yes.

4 Q. And were you there when the paramedics attempted to help
5 the person in the bathroom?

6 A. Yes, sir, but they removed him from the bathroom to give
7 them a little bit more space.

8 Q. Okay. Where did they bring the individual that you had
9 done chest compressions on? Where did they bring in the
10 apartment?

11 A. They brought him out into the hallway and brought him more
12 into the kitchen space where there was more space.

13 Q. Okay. Next photograph, please. What are we seeing here,
14 Officer Chung?

15 A. This is behind us would be the entryway, behind us to the
16 right would be the bathroom, and this is the hallway leading
17 out into the kitchen with the blood droplets on the floor and
18 the big puddle of blood there was where he was worked on.

19 Q. Next photograph, please.

10:12AM 20 A. Again, this is the -- a more open view of the kitchen
21 space as you're standing immediately inside of it, and right
22 there is the some of the tools paramedics used during the
23 medical aid of the victim.

24 Q. And, Officer Chung, let's take a step back. Do you
25 see -- what do you see on the kitchen counters, on the table,

1 on the table against the window there?

2 A. A large amount of beer cans.

3 Q. Okay. Next photograph, please. Is this just a reverse
4 angle of the same picture we were looking at before?

5 A. Yes, sir.

6 Q. All right. What do you see on the floor?

7 A. On the floor you see the big puddle of blood here where
8 the victim was worked on. Again, you see the beer bottles
9 lining the apartment.

10:13AM 10 MR. POHL: Can we have Exhibit 35 for the witness,
11 please.

12 Q. Officer Chung, I'm going to show you, I think there's two
13 pictures. Let me show you both. 35. This is Exhibit 35.1 and
14 .2. Do you recognize those?

15 A. Absolutely, sir.

16 Q. How do you recognize them?

17 A. This is the rear porch of 60 Chester Ave.

18 Q. Okay. And did you see -- did you take a look outside onto
19 the porch when you were there on December 14, 2014?

10:14AM 20 A. Yes, I did.

21 Q. All right. And do those fairly and accurately capture how
22 the porch looks?

23 A. Absolutely.

24 MR. POHL: Your Honor, I'd offer 35.1 and 2 into
25 evidence and ask to publish.

1 THE COURT: All right. They're admitted.

2 MR. POHL: Thank you.

3 (Exhibit Nos. 35.1 and 35.2 received into evidence.)

4 Q. All right. Officer Chung, what are we looking at here?

5 A. This is another angle of the rear porch.

6 Q. Okay. And .2.

7 A. And, again, this is the other angle.

8 Q. Okay. So to get to the porch from the apartment, what did
9 you do?

10:14AM 10 A. You'd have to enter through the kitchen, open up the rear
11 door, and then it leads out to the rear porch.

12 Q. Okay. Officer Chung, what happened next that night while
13 you were at 60 Chester Avenue?

14 A. At that point, Cataldo attempted to work on the gentleman
15 like I've mentioned, and then they shipped him for transport.

16 Q. You remained on scene?

17 A. I was on scene. I spoke to other roommates who were in
18 the living quarters.

19 Q. Okay. And after the conversations that you had with those
10:15AM 20 individuals, what did you do next?

21 A. At that point, I was cleared to go back to the station to
22 write the report.

23 Q. While you were writing the report of what transpired that
24 night, Officer Chung, did you learn the name of the person that
25 was on the bathroom floor that you gave chest compressions to?

1 A. Yes.

2 Q. And who was that?

3 A. Javier Ortiz.

4 Q. And while you were writing your report, Officer Chung, did
5 you receive an update as to Mr. Ortiz' medical condition?

6 A. Yes.

7 Q. What did you learn?

8 A. I learned that he succumbed to his injuries and as a
9 result was pronounced deceased at 4:01 in the morning.

10:16AM 10 MR. POHL: Thank you very much.

11 THE WITNESS: Thank you, sir.

12 THE COURT: Cross-examination.

13 MR. IOVIENO: No.

14 MR. NORKUNAS: If I might, Judge, just briefly.

15 CROSS-EXAMINATION

16 BY MR. NORKUNAS:

17 Q. Good morning, Officer.

18 A. Good morning, sir.

19 Q. You looked at a series of photographs relative to

10:17AM 20 60 Chester Ave. in this particular case. And if I could just

21 have you -- I think it's 34.3, the front door. The next one,

22 please. That actually shows the door. In relation to this

23 particular area, would it be fair to say when you examined that

24 there did not appear to be any forced entry to that door?

25 A. Yes.

1 Q. You're saying yes. You mean there was not any evidence?

2 A. There was no forced entry to the door, correct, sir.

3 Q. And there is not a photograph of the door entering the
4 individual apartment up on the second floor, correct?

5 A. Correct.

6 Q. Was there any evidence to your memory that there was any
7 type of forced entry to that door?

8 A. Which one, sir, the second floor landing?

9 Q. Second floor entry?

10:18AM 10 A. No, sir.

11 Q. And if we could show the kitchen area on -- I think it
12 would probably be four more up. This area. It did not
13 appear -- when you went into that area of the apartment, there
14 did not appear to be any evidence that there had been a
15 physical struggle; is that fair to say?

16 A. Yes.

17 Q. Nothing -- there's obviously disarray from the EMTs that
18 were trying to administer to the person, but nothing is thrown
19 about, knocked about. There's cans and bottles on tops of the
10:18AM 20 tables and counters, right?

21 A. Yes.

22 MR. POHL: And if we could have the next photograph,
23 please.

24 Q. The view there, there's a significant amount of blood
25 there, but appeared that there was nothing disarrayed on the

1 countertops as well, correct?

2 A. Yes.

3 Q. And you indicated -- I believe you indicated the body was
4 found in the bathroom?

5 A. Yes.

6 Q. But it appears that he was treated in the kitchen. Did
7 the EMTs bring him out or did he come out on his own to that
8 spot?

9 A. I testified earlier, sir, that the EMTs brought him out
10:19AM 10 from the bathroom into the hallway and into the kitchen where
11 there was more space.

12 Q. When you -- you had also testified to there was a rear
13 door going out to a back porch, correct?

14 A. Yes, sir.

15 Q. Was there any evidence that that had been a forced entry
16 or broken entry?

17 A. No, sir.

18 Q. And then there was an actual exterior door to the porch as
19 well, correct?

10:19AM 20 A. Yes.

21 Q. Was that, again, appeared to be broken or forced in any
22 way?

23 A. No, sir.

24 MR. NORKUNAS: Thank you. I have nothing further,
25 Judge.

1 THE WITNESS: Thank you, sir.

2 THE COURT: Redirect?

3 MR. POHL: No, your Honor. Thank you, Officer.

4 THE COURT: Thank you. You may step down.

5 THE WITNESS: Thank you, your Honor. Thank you,
6 jurors.

7 MS. LAWRENCE: The government calls Deborah Huacuja.

8 DEBORAH HUACUJA, having been duly sworn by the Clerk,
9 testified as follows:

10:20AM 10 DIRECT EXAMINATION

11 BY MS. LAWRENCE:

12 Q. Good morning.

13 A. Good morning.

14 Q. Can you please say and spell your name for the jury.

15 A. My name is Deborah Huacuja, D-e-b-o-r-a-h, H-u-a-c-u-j-a.

16 Q. Where were you born?

17 A. I was born in Mexico.

18 Q. And what is your first language?

19 A. Spanish.

10:21AM 20 Q. You also speak English?

21 A. Yes.

22 Q. When did you learn English?

23 A. I started studying English in first grade.

24 Q. Did you at some point move to the United States?

25 A. I'm sorry, I did not hear you.

1 Q. Did you at some point move to the United States?

2 A. Yes, while I was in high school.

3 Q. Do you have a college degree?

4 A. I do. I went to Rutgers at the Mason Gross School of Art.

5 Q. Do you have any advanced degrees?

6 A. No.

7 Q. What do you do for a living, Ms. Huacuja?

8 A. I'm an interpreter in the federal courts and in the state
9 courts.

10:21AM 10 Q. How long have you been working as an interpreter?

11 A. I became certified in the State of Washington in 1991.

12 Q. Do you also hold a certification here in the federal
13 court?

14 A. Yes, I became federally certified in 1998.

15 Q. And in what languages are you certified to interpret?

16 A. In the federal system, there's only certification for
17 Spanish and Navajo, but I'm qualified for -- I'm certified in
18 Spanish, English, and I'm qualified for Hebrew.

19 Q. Can you explain what the certification process is for the
10:22AM 20 federal court?

21 A. The process is -- takes two years. First, you have to
22 pass a written exam, which is I would say equivalent to a
23 master's degree language proficiency. And if you pass the
24 written exam, a year later, you are able to take the oral exam,
25 which is much more specific to the judicial language.

1 Q. And what do you mean by "judicial language"?

2 A. To be familiar with all the terminology in criminal cases,
3 both in the courts, in the courtroom, and at the level of
4 ordinary people on the street.

5 Q. Once you become certified, do you have recertification,
6 tests or exams?

7 A. Not really, no.

8 Q. And when you interpret for the Court, who do you work for?

9 A. I work for myself. I'm self-employed.

10:23AM 10 Q. And are there different types of things that you do in the
11 course of providing services?

12 A. Yes. I pretty much cover every aspect of the judicial
13 system, starting with interpreting for probation, pretrial
14 services. I work for both the defense attorneys and for the
15 prosecution, and I know there's something else, but basically
16 every aspect of the Court procedures in and out of court.

17 Q. And when you do that work, whether you're interpreting for
18 pretrial services or the Court, the government or the
19 defendant, are you paid?

10:24AM 20 A. Yes.

21 Q. Okay. And the party that hires you pays you, or the Court
22 pays you for everything?

23 A. Correct -- no. Well, a lot of it -- I think there are two
24 budgets, like CJA and court and probation is one, is paid by
25 the Administrative Court, and the prosecution is paid by the

1 Department of Justice.

2 Q. And have you provided interpreter services in connection
3 with this case?

4 A. Yes.

5 Q. And how long have you been working on this case?

6 A. Since before -- I'd say about roughly three years.

7 Q. And in connection with this case, has the work that you
8 have done included a variety of things that you just described,
9 working for the Court, probation, the government and the
10 defense?

10:24AM

11 A. Yes.

12 Q. And I want to focus on your work for the government right
13 now. Have you prepared English transcripts of Spanish
14 recordings?

15 A. Yes, I have.

16 Q. Can you please describe how you create a transcript of a
17 recording.

18 A. I have a headset, and I'm given the recording and the
19 laptop, and I listen to the recording, and I translate it, and
20 I write it down on the laptop, and that's it.

10:25AM

21 Q. And you said translate. Can I ask you, is there a
22 difference between interpreting or translating?

23 A. Yes.

24 Q. What is that?

25 A. Interpreting is usually oral. Like I will -- like in a

1 trial or in a hearing, if the defendant doesn't speak English
2 and speaks Spanish, one of -- myself or one of my colleagues
3 will stand and translate, what we call interpreting, what is
4 being said so that there is a communication between the Court
5 and the defendant.

6 Q. And so when you're making your transcript, you're
7 listening to the recording?

8 A. Yes.

9 Q. And you're typing while you're listening, or how does that
10:26AM 10 work?

11 A. Well, it's actually a pretty tedious process because you
12 don't listen to it once, you know. Sometimes the recordings
13 aren't great, sometimes -- and usually you have to listen more
14 than once even when the recording is great, you don't like --
15 it's not like speaking where you say it and you're done.
16 Writing it down is -- you have to be very exact.

17 Q. And what kinds of things are you considering when you're
18 listening to a recording and you're trying to make it an exact
19 translation of what you're listening to?

10:27AM 20 A. Well, at all times, regardless of whether I'm transcribing
21 or interpreting, you know, verbally, I am always interested in
22 focusing, laser focusing on being accurate, so that is my main
23 concern is to be accurate. If I am not able to be sure of what
24 I hear, I will write "unintelligible." I don't guess.

25 Q. When you -- a slightly different question. In your

1 experience, do all Spanish speakers speak Spanish in the same
2 way?

3 A. Well, Spanish is one language. It's the same language
4 that we all speak. We can all understand each other, of
5 course. In different parts of the world, there are many
6 countries that are Spanish-speaking, and people develop the
7 language in different ways. Sometimes there are different
8 accents, or words might be used differently.

9 The simplest example would -- even the word for beans
10:28AM 10 in Mexico is "frijoles," and in other places, it might be
11 "porotos." And so one of the challenges and pleasures, I'd
12 say, of being an interpreter is becoming familiar with all the
13 different ways of using the same words or similar words.

14 Q. And in addition to a word having different -- not the word
15 having different meanings but the same thing being described by
16 two different words, are there other considerations or
17 differences in the language in terms of context or formality
18 that you take into consideration?

19 A. Yes, that's what we call the register of the language.
10:29AM 20 For instance, when the Judge is giving instructions to a jury,
21 that's very formal and high level language; whereas if you're
22 having coffee with your friend, it's going to be much more
23 relaxed, and so that we call the registry, and I think part of
24 being an interpreter is maintaining the same tone or the same
25 register of what has been said.

1 Q. And you said earlier that your goal was to make an
2 accurate transcript?

3 A. Correct.

4 Q. And it takes a long time?

5 A. Sometimes, yes.

6 Q. And actually do you have a sort of benchmark that you use
7 for how long it would take to transcribe a certain amount, like
8 a minute of recording takes this amount of time, or is there
9 anything like that that you use?

10:29AM 10 A. Sometimes interpreters are asked -- you know, if they're
11 going to be asked to do a recording how long it will take, and
12 the benchmark is about an hour per minute of recording.

13 Q. Per minute of spoken?

14 A. From hearing and writing and translating.

15 Q. Okay. When you are listening to a recording and you are
16 transcribing the words that are spoken, taking into
17 consideration the differences in regional -- regional word
18 usage and the register, do you also attempt to identify the
19 voices of the speakers?

10:30AM 20 A. No.

21 Q. No. And if your transcript includes voices, speakers
22 identified, where do those come from?

23 A. I'm told who the speakers are, or it's already included in
24 the information that I have, and if I have the opportunity to
25 verify it, if I don't know who the speaker is, I write

1 unidentified male or female, so that would be the UM or UF.

2 Q. When you're making transcripts, do you sit down and write
3 a final transcript from the recording when you listen to it?

4 A. What do you mean?

5 Q. Is your product one final product?

6 A. You usually make a draft of it because of, you know, I
7 might need to review it again and just to make sure because
8 it's something that I want to do correctly.

9 Q. So you might have several iterations of a translation
10:31AM 10 before you reach the point where you feel like it's accurate?

11 A. Yes.

12 Q. In this case, in terms of achieving an accurate transcript
13 and also identifying voices, did you work with anyone to try to
14 do both of those things?

15 A. Yes.

16 Q. And who was that individual?

17 A. You want his name?

18 Q. Yes, please.

19 A. Jose Hernandez.

10:32AM 20 Q. And who is he in connection to this case?

21 A. He's a defendant.

22 Q. Okay. And you worked with him as part of making these
23 transcripts, correct?

24 A. Well, no, I made the transcripts.

25 Q. Yes.

1 A. And I had the opportunity to let him listen to them and
2 identify the speakers.

3 Q. Okay. And did he also at times identify words or phrases
4 or provide context?

5 A. Yes.

6 Q. Okay. So you did take into consideration some of the
7 things he said in producing the final transcripts?

8 A. That is correct.

9 THE COURT: Is this a good break point?

10:32AM 10 MS. LAWRENCE: Sure.

11 THE CLERK: All rise.

12 (JURORS EXITED THE COURTROOM.)

13 (A recess was taken.)

14 THE CLERK: All rise for the jury.

15 (JURORS ENTERED THE COURTROOM.)

16 THE CLERK: Thank you. You may be seated. Court is
17 now back in session.

18 Q. Ms. Huacuja, when we broke, just before we broke, we were
19 talking a bit about your process for preparing a transcript?

10:49AM 20 A. Correct.

21 Q. And you mentioned that you worked with Jose
22 Hernandez-Miguel as part of that process?

23 A. Yes.

24 Q. Can you tell the jury what you did as part of that process
25 with him?

1 A. Well, I was not alone with Mr. Hernandez. There were
2 agents, and there was a laptop and we played the recording for
3 Mr. Hernandez-Miguel to listen to while I already had my
4 transcript, my draft transcript in front of me. And as we
5 listened to each recording, he identified who the speakers
6 were. If there was a word or a phrase that I was unfamiliar
7 with, I had the opportunity to ask him the meaning of that, and
8 that's what we did with each recording.

9 Q. And in the course of preparing the transcripts, you
10:50AM 10 mentioned earlier that you listened to the recordings several
11 times?

12 A. Correct.

13 Q. And you described how long it would take. It's fair to
14 say several hours you'd listen to a recording in preparing that
15 one transcript?

16 A. Yes, more than that even.

17 Q. Okay. And how many hours do you think you spent listening
18 to recordings in this case preparing transcripts?

19 A. I couldn't say a number, but many.

10:51AM 20 Q. Many. In the course of listening those recordings, did
21 you become familiar with certain voices?

22 A. Yes, I could hear that there was a voice similar to the
23 one I had heard previously.

24 Q. And did you also watch videos? Were some of these
25 recordings video and audio?

1 A. Yes.

2 Q. And when you were watching the video, could you see people
3 speaking at times on screen?

4 A. Yes. My focus was mostly audio. Having a visual really
5 makes no difference in my translation.

6 Q. Did it make any difference to you in whether you felt your
7 identification of a speaker or someone else's was accurate?

8 A. I really didn't focus that much on it. I just really
9 focused on what each person was saying.

10:52AM 10 Q. And the translation of those words onto the transcript?

11 A. Yes.

12 Q. Okay. Ms. Huacuja, I'd like to show you -- just for the
13 witness, please. Exhibit -- I'm sorry, this is just for the
14 witness. This is what's been marked as Exhibit 200. Do I hit
15 it or -- this is a disk -- well, tell me, what is this that
16 you're seeing on the screen right now?

17 A. I see an envelope with a compact disk in it.

18 Q. And is there a date on that disk?

19 A. Yes, 1-25-14.

10:53AM 20 Q. Do you know what this is?

21 A. It says Exhibit 200 from 15-10338.

22 Q. And is this a recording made on January 25, 2014? This is
23 a disk of that recording?

24 A. I don't know when it was made, but it is a recording.

25 Q. Okay. All right. Did you listen to this recording?

1 A. Yes.

2 MS. LAWRENCE: Okay. Can I pull up for the exhibit --
3 this is back to the screen. Exhibit 20, please.

4 Q. Ms. Huacuja, do you recognize this document on the screen?

5 A. Yes.

6 Q. Okay. What is that, please?

7 A. It's a transcript that I made.

8 Q. And is this the full transcript or an excerpt?

9 A. Well, all I see is the first page. I believe this is an
10:54AM 10 excerpt from a full transcript.

11 Q. And this is a transcript that you made, correct?

12 A. Correct.

13 MS. LAWRENCE: Okay. Back to the Elmo, please, for
14 the witness.

15 Q. So what's been marked for identification as Exhibit 201.
16 Did you listen to this recording made on February 16, 2014?

17 A. I listened to that recording, yes.

18 MS. LAWRENCE: And for the witness, please,
19 Exhibit 119.

10:54AM 20 Q. Do you recognize this?

21 A. Yes.

22 Q. What is it, please?

23 A. It's another transcript that I made.

24 Q. That you made, okay. Thank you.

25 MS. LAWRENCE: And back to the Elmo, please. I'm

1 showing you what's been marked as Exhibit 202.

2 Q. Did you listen to this recording made on June 14, 2014?

3 A. Yes.

4 MS. LAWRENCE: And for the witness, please,
5 Exhibit 22.

6 Q. Ms. Huacuja, do you recognize this item?

7 A. Yes, it's another transcript that I made.

8 Q. And also of the June 14, 2014 recording, correct?

9 A. Yes.

10:56AM 10 MS. LAWRENCE: Exhibit 120 for the witness, please.

11 Q. Do you recognize this document?

12 A. Yes.

13 Q. And what is it?

14 A. It's another transcript that I made.

15 MS. LAWRENCE: Back to the Elmo, please.

16 Q. Ms. Huacuja, did you listen to this recording made on
17 February 8, 2015?

18 A. Yes.

19 MS. LAWRENCE: And Exhibit 23 for the witness, please.

10:56AM 20 Q. Do you recognize this document?

21 A. Yes.

22 Q. And what is that?

23 A. It's another transcript that I made.

24 Q. A recording we just --

25 A. Correct, of the previous recording.

1 MS. LAWRENCE: Elmo again, please.

2 Q. Did you listen to this recording made on March 29, 2015?

3 A. I did.

4 MS. LAWRENCE: And Exhibit 24 for the witness.

5 Q. Do you recognize this document?

6 A. Yes, I do.

7 Q. And what is it, please?

8 A. It's another transcript that I made.

9 Q. Of the recording we just --

10:57AM 10 A. Of the recording that I just saw.

11 Q. Okay.

12 MS. LAWRENCE: Elmo, please.

13 Q. Did you listen to this recording made on August 31, 2015?

14 A. Yes, I did.

15 MS. LAWRENCE: Exhibit 27 for the witness, please.

16 Q. Do you recognize this document?

17 A. Yes.

18 Q. What is it?

19 A. It's another transcript that I made from the previous

10:58AM 20 recording.

21 MS. LAWRENCE: Elmo, please.

22 Q. Did you listen to this recording of an October 24, 2015
23 recording?

24 A. Yes.

25 MS. LAWRENCE: Exhibit 28 for the witness, please.

1 Q. I'm going to show you two documents related to the
2 recording we just saw. The first is the one before you now.
3 Do you recognize this?

4 A. Yes, it's a transcript that I made of the recording that
5 we just saw.

6 MS. LAWRENCE: Okay. And then Exhibit 121, please.

7 Q. And do you also recognize this document?

8 A. Yes.

9 Q. Okay. And what is that?

10:58AM 10 A. It's a transcript that I made of the same recording.

11 Q. Okay. And why were there two transcripts?

12 A. There are two different parts.

13 Q. Two different parts, okay.

14 MS. LAWRENCE: Elmo again, please.

15 Q. Did you listen to this recording made on January 8, 2016?

16 A. Yes.

17 MS. LAWRENCE: For the witness, Exhibit 31.

18 Q. Do you recognize this document?

19 A. Yes.

10:59AM 20 Q. What is it, please?

21 A. It's another transcript that I made of the previous
22 recording.

23 Q. I will show you another document related to the disk we
24 just saw. This is Exhibit 122. Do you recognize this?

25 A. Yes.

1 Q. What is it, please?

2 A. It's a transcript that I made of the previous recording,
3 different section.

4 Q. Thank you.

5 MS. LAWRENCE: Elmo again, please.

6 Q. Did you listen to calls -- I'm sorry, did you listen to
7 the recordings of calls made on December 16, 2014?

8 A. Yes.

9 MS. LAWRENCE: For the witness, please.

11:00AM 10 Q. I'm showing you Exhibit 44.1 through 44.4. Do you
11 recognize those documents?

12 A. Yes.

13 Q. And what are they, please?

14 A. They are transcripts I made of the previous recordings.

15 MS. LAWRENCE: Elmo, please.

16 Q. Did you listen to a recording made on January 21st, 2014?

17 THE COURT: Before we -- you talked about a disk
18 bearing the date December 16, 2014, but you didn't give it a
19 number?

11:01AM 20 MS. LAWRENCE: I'm sorry, 209, your Honor.

21 THE COURT: Okay. Go ahead.

22 Q. This is a disk marked for identification as Exhibit 210,
23 recording made on January 21st, 2013. Did you listen to this
24 recording?

25 A. Yes.

1 MS. LAWRENCE: For the witness, please, Exhibit 55.

2 Q. Do you recognize this document?

3 A. Yes.

4 Q. And what is it, please?

5 A. It's a transcript I made of the previous recording.

6 MS. LAWRENCE: Elmo, please.

7 Q. Okay. Showing you a disk that's been marked as
8 Exhibit 211. It's a recording of calls made on February 14,
9 2014. Did you listen to these calls?

11:01AM 10 A. Yes, I did.

11 MS. LAWRENCE: For the witness, please, Exhibits 56.1
12 through 53.

13 Q. Do you recognize those documents?

14 A. Yes.

15 Q. What are they?

16 A. They are transcripts I made of the recordings.

17 Q. That were on the prior disk that we --

18 A. Correct, of the previous disk.

19 MS. LAWRENCE: Okay. Elmo, please.

11:02AM 20 Q. Showing you a disk that's been marked for identification
21 as Exhibit 212. Did you listen to these recordings of calls
22 made December 1, 2014 through December 8, 2014?

23 A. Yes.

24 MS. LAWRENCE: For the witness, please, Exhibit 62.1
25 through 62.4.

1 Q. Do you recognize these documents?

2 A. Yes, they are transcripts that I made of the previous
3 recording.

4 MS. LAWRENCE: Elmo, please.

5 Q. Showing you what's been marked as Exhibit 214 for
6 identification, a recording made on June 4, 2015. Did you
7 listen to this recording?

8 A. I did.

9 MS. LAWRENCE: Exhibit 73 for the witness, please.

11:03AM 10 Q. Do you recognize this document?

11 A. Yes.

12 Q. What is it, please?

13 A. It's a transcript that I wrote of the previous recording.

14 MS. LAWRENCE: Okay. Elmo, please.

15 Q. I'm showing you two disks. One is marked as
16 Exhibit 215.1, the other is 215.2. These are recordings made
17 on April 28, 2015. Did you listen to these recordings?

18 A. Yes.

19 MS. LAWRENCE: Okay. Exhibit 89 for the witness,
11:04AM 20 please.

21 Q. Do you recognize this document?

22 A. Yes.

23 Q. What is it?

24 A. It's a transcript I made of the previous recordings.

25 MS. LAWRENCE: Okay. Elmo, please.

1 Q. Showing you what's been marked as Exhibit 216 for
2 identification. This is a recording made on October 2, 2015.
3 Did you listen to this recording?

4 A. Yes.

5 Q. Exhibit 103 for the witness, please. Do you recognize
6 this document?

7 A. Yes.

8 Q. What is it?

9 A. It's a transcript I made of the previous recordings.

11:04AM 10 MS. LAWRENCE: Elmo, please.

11 Q. Showing you a disk that's been marked as Exhibit 217.
12 It's a recording made on December 6, 2015. Did you listen to
13 this recording?

14 A. Yes, I did.

15 MS. LAWRENCE: Exhibit 106 for the witness, please.

16 Q. Do you recognize this document?

17 A. Yes.

18 Q. And what is it?

19 A. It's a transcript I did of the previous recording.

11:05AM 20 MS. LAWRENCE: I'd like to show the witness also
21 Exhibit 125.

22 Q. Do you also recognize this document?

23 A. Yes.

24 Q. And what is that?

25 A. It's a transcript I made of the previous recording.

1 Q. And as with prior disk that had two transcripts, is this a
2 separate part of the recording?

3 A. Yes.

4 MS. LAWRENCE: Okay. Elmo, please.

5 Q. Showing you what's been marked as Exhibit 218. It's a
6 recording of a call made on January 1, 2016. Did you listen to
7 this recording?

8 A. Yes.

9 MS. LAWRENCE: Exhibit 115 for the witness, please.

11:05AM 10 Q. Do you recognize this document?

11 A. Yes.

12 Q. And what is it?

13 A. It's a transcript I made of the previous recording.

14 MS. LAWRENCE: Elmo, please.

15 MR. MURPHY: Is that 115 or 114, your Honor?

16 THE COURT: She said 115. I think the last one --

17 MS. LAWRENCE: It was 114.

18 THE COURT: It should be 114?

19 MS. LAWRENCE: It should've been 114.

11:06AM 20 THE COURT: The transcript.

21 MS. LAWRENCE: Thank you.

22 Q. Now showing you what's been marked as Exhibit 219 for
23 identification. It's a recording made on January 2, 2016. Did
24 you listen to this recording?

25 A. Yes, I did.

1 Q. Okay.

2 MS. LAWRENCE: Now. Exhibit 115 for the witness.

3 Thank you.

4 Q. Do you recognize this document?

5 A. Yes.

6 Q. And what is it?

7 A. It's a transcript I made of the previous recording.

8 MS. LAWRENCE: Elmo again, please.

9 Q. Okay. Now I'm showing you what's been marked as

11:07AM 10 Exhibit 220 for identification. This is a recording -- a
11 different recording made on January 2, 2016. Did you listen to
12 this?

13 A. Yes.

14 MS. LAWRENCE: And Exhibit 116 for the witness,
15 please.

16 Q. Do you recognize this document, Ms. Huacuja?

17 A. Yes.

18 Q. And what is it, please?

19 A. It's a transcript I made of the previous recording.

11:07AM 20 MS. LAWRENCE: No further questions at this time, your
21 Honor.

22 THE COURT: All right. Mr. Iovieno.

23 MR. IOVIENO: Yes, your Honor. Thank you.

24

25

1 CROSS-EXAMINATION

2 BY MR. IOVIENO:

3 Q. Good morning.

4 A. Good morning.

5 Q. We know each other, correct?

6 A. Correct.

7 Q. We've worked together in the past?

8 A. Yes, we have.

9 Q. Is it fair to say that you spent hundreds of hours doing
11:08AM 10 these transcriptions?

11 A. As I said, I really can't tell you a number, but many
12 hours.

13 Q. It was a pretty big job to do, correct?

14 A. Yes, sir.

15 Q. And you spent about three years doing this for the
16 government?

17 A. I've been working on this case for about three years, not
18 only doing this.

19 Q. And is it fair to say that this was a tedious process for
11:08AM 20 you doing this?

21 A. Which part?

22 Q. Actually listening to the tapes and then transcribing
23 them, that that was a tedious type of task for you?

24 A. Well, I mean it's -- the nature of the work is tedious in
25 the sense that you have to listen over and over again.

1 Q. And you have to listen over and over again because the
2 recordings, if you will, are not sometimes of good quality,
3 correct?

4 A. In some cases, the recordings are sometimes not a good
5 quality. In this case, as it turned out, they were pretty
6 consistently a good quality.

7 Q. But with respect to say when there's a number of voices
8 being heard at a meeting, sometimes it's difficult to hear some
9 of the voices that are off and to a distance that are speaking,
10 correct?

11:09AM

11 A. That's correct.

12 Q. Simply for the fact that the person recording or the
13 recording device is located in one area and the other people
14 may be located a distance away?

15 A. That's possible, yes.

16 Q. And their voices, if you will, are sometimes -- are
17 muffled?

18 A. Yes.

19 Q. And you come across that situation and you can't
20 understand what someone is saying, you put down whatever you
21 heard was unidentified, right?

11:10AM

22 A. "Unintelligible" or sometimes "voices overlapping," which
23 implies that it's unintelligible.

24 Q. And that occurred on a number of occasions during the
25 course of this case, correct?

1 A. Yes.

2 Q. And with respect to -- you knew the identity of the person
3 who had the recorder on, correct?

4 A. I knew that person as CW.

5 Q. CW-1?

6 A. CW-1, yes.

7 Q. And it's fair to say that his voice was pretty clear,
8 because the recording device was on him, so you could recognize
9 his voice, correct?

11:10AM 10 A. Not necessarily. I mean, all the voices -- there were
11 many voices that were pretty clear.

12 Q. But with respect to his, in particular, because the
13 recording device was on him, you had no difficulty after
14 listening a few times to identify his voice, correct?

15 A. I didn't identify any voices. That was somebody else's
16 job.

17 Q. Okay. So, you didn't identify any of the speakers on
18 these transcripts?

19 A. Correct.

11:11AM 20 Q. You relied on other people to do that for you, right?

21 A. To do that, period. Not for me, but for the case.

22 Q. And on the documents that you were shown by the
23 government, the actual identification of the speakers you did
24 not do?

25 A. Correct.

1 Q. And when you were doing this process, when you first
2 started the process, were you given any draft transcripts by
3 other linguists who did this for the government?

4 A. Sometimes.

5 Q. Okay. And on how many occasions were you given other
6 transcripts done by others?

7 A. I don't know.

8 Q. But it was a number of occasions?

9 A. Yes, not that many, but a few.

11:11AM 10 Q. And did you work off of those transcripts that other
11 people did to come up with your own version of the transcripts?

12 A. I sometimes reviewed the other transcripts, but mostly
13 even if there was a previous transcript, I would create my own
14 transcript.

15 Q. And is it fair to say that you came up with a number of
16 different draft transcripts and they morphed or changed over
17 time? Is that fair to say?

18 A. As I progressed, you know, it wasn't like I did the full
19 translation of a transcript in one sitting. So as I worked on
11:12AM 20 it, it wasn't that only that might have changed but that I was
21 advancing in the translation. So if it was unfinished, I just
22 called it a draft, and then even once it was finished, I still
23 left myself the option of being able to go back and make a
24 change, if necessary.

25 Q. And you had conversations with the government about that

1 process; is that fair to say?

2 A. Yeah.

3 Q. And its fair to say that you told them that this was not a
4 final product, that this needs work, and the transcripts went
5 over transformation until it became a final transcript, right?

6 A. I didn't say it needed work. I'd just write "draft" on
7 it. It wasn't a conversation about it.

8 Q. Well, you understood that certain of these draft
9 transcripts were produced during the course of this trial,
10 correct?

11:13AM

11 A. I'm sorry. I didn't understand the question.

12 Q. Was it your understanding that certain drafts of the
13 transcripts were produced during the course of this litigation?

14 A. Yes.

15 Q. And you understood that with respect to say one meeting
16 that may have been three, four or five or even six transcripts
17 that were produced that were drafts?

18 A. I don't know.

19 Q. You had no role in that, correct?

11:13AM

20 A. No.

21 Q. And at some point when you completed your work on say one
22 of the meetings, did you indicate this was the final
23 transcript?

24 A. Yes.

25 Q. And there was nothing more for you to do on it?

1 A. Yes.

2 Q. That that was the best you could do with it, correct?

3 A. Correct.

4 Q. And coming to that end product, there were numerous drafts
5 in between on some of these meetings; not all of them, but some
6 of them?

7 A. Well, it wasn't that there was a finished draft and then
8 another finished drafts. Mostly the drafts were, as I said,
9 previously, because it was unfinished.

11:14AM 10 Q. Well, let's direct your attention to a specific task that
11 you did, okay.

12 MR. IOVIENO: And I'm going to show the document
13 camera for the witness.

14 MS. LAWRENCE: Your Honor, objection.

15 THE COURT: I'm sorry.

16 MS. LAWRENCE: Objection.

17 THE COURT: Well, he hasn't shown anything. Let me
18 see what he's showing her. This is the witness, should be
19 witness only?

11:14AM 20 MR. IOVIENO: Yes.

21 THE COURT: Yes.

22 Q. I'm going to show you a document, and it appears to be the
23 January, 2016 draft transcript, correct?

24 A. Yes.

25 Q. The first page of it?

1 A. I'm sorry.

2 Q. The first page of it?

3 A. Yes.

4 Q. All right. And that's a draft transcript that you did for
5 the government, right?

6 A. Yes.

7 Q. And with respect to this meeting, is it fair to say that
8 there were a number of draft transcripts that you submitted
9 regarding this meeting?

11:15AM 10 A. Possibly.

11 Q. Okay. And there were certain information or translations
12 in that transcript during the various drafts that changed over
13 time, correct?

14 A. I believe so, yes.

15 Q. And with respect to say the identification of the
16 speakers, it's your understanding that also changed on some
17 occasions?

18 A. Yes.

19 Q. Okay. And that changed because somebody told you it was a
11:15AM 20 different speaker, right?

21 A. Correct.

22 Q. And that wasn't something that you did?

23 A. Correct.

24 Q. And if I could just turn to page 51. And, again, just so
25 we're clear, the identification of the speakers on page 51, on

1 this version, this is not something that you did, someone else
2 did?

3 A. Correct.

4 Q. I'll show you another document which appears to be another
5 draft transcript of the January 8, 2016 recording, correct?

6 A. Yes.

7 Q. Okay. This is another version of the transcript that you
8 put in to the government? You gave this to the government?

9 A. It appears to be different, yes.

11:16AM 10 Q. It's an earlier version of what I just showed you earlier,
11 correct? This predated that version?

12 A. Well, this might be one of the transcripts that was
13 originally made by somebody else.

14 Q. So with respect to the January 8th meeting, specifically,
15 that's one of the transcripts that someone else may have
16 contributed to in making the --

17 A. Possibly, yes. There are certain abbreviation lists that
18 I don't use.

19 Q. And could you just point that out on this document for me?

11:17AM 20 A. Right there.

21 Q. And that is something that you do not use, and that would
22 indicate to you that you didn't produce this draft transcript?

23 A. It's possible that I worked on it.

24 Q. Now, with respect to the -- I think you testified that
25 some of the language was -- the dialect was different?

1 A. Some words are different. It's not a different dialect.

2 Q. Is it fair to characterize some of the language that you
3 heard on these tapes as slang?

4 A. Yes.

5 Q. And it's fair to say that there were certainly muffled
6 words and language during the course of your doing these
7 transcriptions?

8 A. Well, like I said, if it's muffled, if I can't understand
9 it, I don't translate what I didn't hear.

11:18AM 10 Q. And, again, with respect to -- you understood that there
11 was someone with the name of Lobo that was identified to you as
12 perhaps one of the speakers, correct?

13 A. As a nickname, yes.

14 Q. Okay. And were you told that there were two Lobos
15 involved in this case?

16 A. No.

17 MR. IOVIENO: I have nothing further.

18 THE COURT: Any other cross? Mr. Norkunas.

19 CROSS-EXAMINATION

20 BY MR. NORKUNAS:

21 Q. Good morning.

22 A. Good morning.

23 Q. We also have worked together.

24 A. That is correct.

25 Q. In relation to the rough product, if I could call it that,

1 the original disk that came in, was there ever a meeting in
2 which multiple interpreters or translators were all together in
3 one area and trying to work on transcripts?

4 A. No.

5 Q. Did you ever meet or discuss transcripts that came from
6 other providers as to why they had interpreted certain terms in
7 certain ways?

8 A. No.

9 Q. It's fair to say that -- is it fair to say that there were
11:20AM 10 different people -- you became familiar with there were
11 different people in different sections of the country that were
12 interpreting the rough tapes and then those transcripts were
13 coming to you?

14 A. I'm sorry. Could you repeat the question?

15 Q. There were other interpreters in other sections of the
16 country which were preparing initial transcripts of some of the
17 recordings and then those would come to you?

18 A. I don't know where they came from.

19 Q. So you were never told by anybody we have had a certain
11:20AM 20 person do transcripts and they're coming to you?

21 A. No.

22 Q. You didn't know their proficiency, you didn't know their
23 training, you didn't know their background, you were just given
24 a transcript and told this is part of the case?

25 A. I didn't know anything about the transcripts that were

1 done before I saw them.

2 Q. So once you were given a transcript, a typed version of a
3 recording, you weren't asked to redo it, correct?

4 A. Most of the transcripts that I made, I was given a
5 recording from the start. Some transcripts had been done
6 previously. I was -- I looked at some of them because I was
7 asked to and then produced my own transcript, if necessary.

8 Q. That would be -- some of them, is that a number that means
9 1, 2, 3, 4?

11:21AM 10 A. Yes, maybe three or four.

11 Q. Three or four, all right. Do you know how many came in
12 from other interpreters that you had not met or encountered?
13 Do you know what the total number of that would have been?

14 A. No, I have no idea.

15 Q. And did you simply -- or not simply. Did you go into
16 those to determine if there was something there that you
17 thought that was not consistent with the way you were
18 interpreting a phrase or a name?

19 A. When I was asked to review a transcript, it was already
11:22AM 20 done by somebody else. My process was to listen to the
21 recording while I'm reviewing the transcript and see if I agree
22 with that transcript or not. And if it was a transcript that
23 needed to be produced, I made changes in my own transcript.

24 Q. So there were terms used by another interpreter someplace
25 that you may have disagreed with and then you would change it?

1 A. No terms, words.

2 Q. Words that you would disagree with and you would change
3 those?

4 A. Sometimes it would say "unintelligible," and I could tell
5 what was being said, so I would put in what I heard, and
6 sometimes there were things that were incorrect and I corrected
7 them.

8 Q. When you say incorrect, that was your interpretation of
9 whether that was correct or not correct?

11:23AM 10 A. Yes and no because a language is used because it has
11 meaning, so if something that you hear is -- if you hear it and
12 what is written is not what you hear, then that is incorrect,
13 so it's not a matter of interpretation, it's, you know, what it
14 says.

15 Q. But you were unfamiliar with the knowledge or the skills
16 of the person that had given you the original transcript,
17 correct?

18 A. I had no knowledge of the person who had done the original
19 transcript.

11:23AM 20 Q. You became the final judge?

21 A. Yes.

22 MR. NORKUNAS: Thank you.

23 THE COURT: Anyone else? Any redirect? I'm sorry,
24 Ms. Rodriguez.

25

1 CROSS-EXAMINATION

2 BY MS. RODRIGUEZ:

3 Q. Good morning, Ms. Huacuja.

4 A. Good morning. How are you?

5 Q. We have not worked together, but my name is
6 Madeleine Rodriguez, and I represent Mr. Sandoval. I just want
7 to ask you a few questions about some of the translations that
8 you reviewed with Ms. Lawrence, if that's okay.

9 A. Yes.

11:24AM 10 THE COURT: Can you get the cord off the screen, if
11 you would, please. Thank you.

12 Q. Ms. Huacuja, do you recall seeing this translation
13 transcript?

14 A. Yes.

15 Q. And you prepared this transcript, correct?

16 A. Correct.

17 Q. I want to direct your attention to the statement -- the
18 paragraph towards the bottom. I'm going to play for you the
19 original recording, if that's all right, and then once we've
11:25AM 20 listened to the Spanish, I'd like to discuss the translation.

21 THE COURT: This isn't in evidence. It has not been
22 admitted into evidence, the recording or the transcript, at
23 this point. If everyone agrees, we can just admit it, if that
24 saves time, but --

25 MS. RODRIGUEZ: Could we be seen at sidebar briefly?

1 THE COURT: All right.

2 MS. RODRIGUEZ: Thank you.

3 (THE FOLLOWING OCCURRED AT SIDEBAR:)

4 MS. LAWRENCE: It hasn't been admitted because the
5 speakers have not been identified yet by Ms. Huacuja.

6 THE COURT: I understand why you haven't offered it
7 yet. If she wants to offer the recording or the disk, you're
8 not going to object to it, you intend to offer it at some
9 point, right?

11:26AM 10 MR. POHL: I don't think so. I don't think we intend
11 to offer the Spanish recording. I mean, there's one or two
12 excerpts for one or two reasons like the one last week with --
13 but I don't expect we would offer the full recordings
14 themselves.

15 THE COURT: Even so, what would the objection be to
16 playing the recording? Presumably, it's the government's own
17 recording in Spanish.

18 MS. LAWRENCE: Sorry. The objection would be that
19 that's not the evidence, and we're not entirely sure what the
11:26AM 20 point of playing --

21 THE COURT: But how else does Ms. Rodriguez, if she
22 wants to contest the translation of a word?

23 MS. LAWRENCE: Is it the translation or the speaker
24 because we haven't --

25 THE COURT: If it's the speaker, she's not the right

1 witness. Is it the translation?

2 MS. RODRIGUEZ: It's the translation.

3 THE COURT: Okay. Well, it seems to me that -- I
4 guess I don't see any reason why I can't admit the disk, at
5 least for this purpose and then, at a minimum, we can admit the
6 transcript of the relevant paragraph or word or whatever that
7 she's arguing about, although, I don't know why the whole, you
8 know, again, unless someone objects --

9 MS. LAWRENCE: We are going to object because we're
10 offering it.
11:27AM

11 THE COURT: You are not offering it?

12 MS. LAWRENCE: We would be offering it.

13 THE COURT: Okay. Is there an objection to the whole
14 transcript coming in? Does anyone object to it?

15 MR. IOVIENO: I would object to the transcript coming
16 in? It's the first time I've heard that the tapes weren't
17 going in. So if the tapes don't go in, I don't know how the
18 transcript is coming in, so I object to the transcripts.

19 MS. LAWRENCE: The tapes are the evidence of the --

11:27AM 20 THE COURT: Because the tapes are in Spanish, they
21 aren't normally the evidence English transcription is. You can
22 offer it. I mean, it's relevant, again, for the purpose of
23 proving that it's wrong, as we're doing here, but I don't know
24 that we need to clutter the record with 30 disks.

25 MR. IOVIENO: Doesn't the transcript have to interpret

1 something that's in evidence?

2 THE COURT: Well, no. I mean, like -- I guess it's a
3 form of expert testimony. It can be based on things that, you
4 know, could be admissible, but you don't have to admit the
5 underlying recordings. If they were English, they'd come in.

6 So let's do this, let's admit the disk, and I will
7 admit, so far as the transcript as -- it's a particular
8 sentence or phrase or paragraph or whatever that you're
9 disputing and identify it and maybe put a piece of paper over
10 the rest of it until I admit the whole transcript. I thought I
11 heard someone saying you were objecting to the transcript as a
12 whole?

13 MR. IOVIENO: Yes.

14 THE COURT: Okay. Why don't we handle it that way.
15 And just for the sake of convenience, I don't know if it's
16 possible to block off the speaker's name or not. If it's not,
17 I'll have to give a limiting instruction at this point.

18 MS. RODRIGUEZ: Thank you, your Honor.

19 (SIDEBAR CONFERENCE WAS CONCLUDED)

11:29AM 20 THE COURT: Ladies and gentlemen, let me try to
21 explain what we're doing here. Counsel expects to
22 cross-examine the witness about the Spanish translation. I'm
23 going to admit the underlying disk in evidence so that she can
24 listen to it.

25 What is the relevant disk? What number?

1 MS. RODRIGUEZ: I believe it's 206, your Honor.

2 THE COURT: All right. Exhibit 206 is admitted.

3 (Exhibit No. 206 received into evidence.)

4 THE COURT: And then as to this document, which is
5 Exhibit 28, the government expects to introduce it later, but
6 it's not yet in evidence. I'm going to admit the apparently
7 disputed translation portions in this case. You're going to be
8 shown what looks like a sentence or a paragraph or so and that
9 piece. So Exhibit 28, that portion of Exhibit 28 will be
10 admitted.

11:30AM

11 (Exhibit No. 28 received into evidence.)

12 MS. RODRIGUEZ: Thank you, your Honor.

13 THE COURT: Whenever you're ready, Ms. Rodriguez.

14 Q. All right. So, Ms. Huacuja, as I said, we're going to
15 focus on this specific paragraph, and I'm going to play you the
16 corresponding audio recording. You could just listen and
17 follow along with me.

18 THE COURT: We're not going to play the whole disk?

19 MS. LAWRENCE: Objection, your Honor.

11:30AM

20 THE COURT: We're just --

21 MS. LAWRENCE: As to the identification of this
22 portion of the tape corresponding to that part of the
23 transcript. It was a foundation.

24 THE COURT: Overruled.

25 (Video in Spanish played)

1 Q. Ms. Huacuja.

2 A. Huacuja.

3 Q. Huacuja, I'm sorry. Did you hear in that excerpt the
4 following Spanish phrase, "enoce que decisiones van a tomar
5 despues de que le peguen a desconten ay este loco?"

6 A. A desconten, I heard, yes.

7 Q. Did you hear "despues de que le peguen un desconten ay
8 este loco"?

9 A. I'd have to listen again.

11:31AM 10 Q. Would you like me to play it again for you?

11 A. Yes, please.

12 (Video played in Spanish)

13 A. I believe that's what you said.

14 Q. Okay. And if we return to the translation that you
15 prepared, you translated that phrase as, "So I don't know what
16 decisions you will make after you give this dude the beating,"
17 correct?

18 A. Correct.

19 Q. And just turning momentarily back to the Spanish phrase,
11:32AM 20 there's a word in there that's "peguen", correct?

21 A. I believe so, yes.

22 THE COURT: Could you spell that for the record?

23 MS. RODRIGUEZ: P-e-g-e-n.

24 THE WITNESS: P-e-g-u-e-n.

25 THE COURT: P-e-g-u-e-n is the word, correct?

1 THE WITNESS: Yes.

2 THE COURT: All right. Go ahead.

3 Q. And so in the translation that you prepared, the sentence,
4 "So I don't know what decisions you will make after you give
5 this dude the beating," the word "peguen", what is that
6 translating to in the English?

7 A. The word "pegar" is usually to hit, it can also mean to
8 "attach" or "glue." And, again, it's colloquial Spanish, so
9 can you tell me what your question is, again?

11:33AM 10 Q. Sure. So you mentioned that one of the translations would
11 be the word "to hit"; is that correct?

12 A. It can be, yes.

13 Q. Okay. So in this sentence that you translated from that
14 audio recording, the sentence, "So I don't know what decisions
15 you will make after you give this dude the beating," peguen, or
16 as you said, which is a conjugated form of the verb pegar, what
17 is that being translated into?

18 A. I'm not translating that word alone. I'm translating it
19 with the word that comes afterwards, which is "desconten,"
11:33AM 20 which is one of the words of art used in this case, and it was
21 explained to me by Mr. Hernandez, which means a beating.

22 Q. "A beating." So, "peguen," it's hitting in this sentence
23 in the form of a beating; is that fair to say?

24 A. No. In this sentence, I'd say is "give him a desconten,"
25 so the "pegar un desconten" would be to -- pegar would be to

1 sort of give him -- that's not the part of the phrase that is
2 the hitting part.

3 Q. Fair enough.

4 THE COURT: Okay. I'm sorry to do this to you, but
5 can I ask you to spell the phrase that you're talking about
6 here?

7 THE WITNESS: Yes, your Honor, "peguen" is
8 p-e-g-u-e-n, "desconten" would be d-e-s-c-o-n-t-o-n.

9 THE COURT: Thank you.

11:34AM 10 Q. All right. I'd like to turn to another paragraph in this
11 same transcript, if that's all right.

12 THE COURT: All right. This paragraph, which in the
13 translation begins, "the problem is that" will be admitted,
14 again, as a portion of Exhibit 28.

15 (A portion of Exhibit No. 28 received into evidence.)

16 Q. All right. And do you see this paragraph?

17 A. Yes, I do.

18 Q. And you prepared this transcription, correct?

19 A. That's correct.

11:36AM 20 Q. Okay. I'd also like to now listen to the corresponding
21 Spanish underlying this sentence.

22 (Video played in Spanish)

23 Q. During that recording, did you hear the phrase, the
24 Spanish phrase, "habemos y hay muchos que aun pegado, homie"?

25 A. Yes.

1 Q. And is it fair that you've translated that phrase into
2 "There are many of us here who have killed, homie"?

3 A. Yes.

4 MR. LOPEZ: Objection, your Honor.

5 THE COURT: Overruled.

6 Q. So in that Spanish recording that we listened to, you
7 confirmed that we heard the word "pegado", correct?

8 A. "Aun pegado" from the same verb "pegar".

9 Q. Yes, from the same verb "pegar". And earlier you said
10 that "pegar" can be translated into, you know, hitting someone,
11 "glue," being, you know, "adjacent to one another," but not the
12 word "kill," correct?

13 A. That's correct.

14 Q. I'd like to turn to another translation.

15 THE COURT: While she's getting set up, ladies and
16 gentlemen, let me again just remind you. It's up to you to
17 decide whether to accept a particular version of the
18 translation or when we get to that point, the identification of
19 the speakers. It's a decision that you are to make in the
20 context of deciding this case. Go ahead.

21 Q. Do you recognize this transcript?

22 A. It appears to be one of the transcripts that was
23 previously translated before I translated it. It might be one
24 that I worked on.

25 Q. Do you recall whether or not you worked on this

1 translation?

2 A. I'd to have see the transcript.

3 THE COURT: Do you have the whole document?

4 MS. RODRIGUEZ: I do. May I approach?

5 THE COURT: Yes.

6 THE WITNESS: I don't recall this offhand.

7 MS. RODRIGUEZ: No further questions, your Honor.

8 THE COURT: Mr. Lopez.

9 CROSS-EXAMINATION

10 BY MR. LOPEZ:

11 Q. Good morning.

12 A. Good morning.

13 Q. I, as the others, have worked with you?

14 A. Yes, many times.

15 Q. Directing your attention to a transcript of an excerpt
16 from January 25, 2014, at the bottom of page 3.

17 MR. LOPEZ: Can I just show this to the witness?

18 Q. Do you see the highlighted portion there?

19 A. Yes.

11:42AM 20 Q. And it's attributed to a particular speaker?

21 A. Yes.

22 Q. And I think you said that it was Mr. Hernandez who
23 assisted you in identifying the speakers?

24 A. He didn't assist me in identifying, he identified. I did
25 not identify.

1 Q. He's also known as Muerto?

2 A. That is his street name.

3 Q. And so he was the one that told you that the person
4 identified at the bottom of page 3 of this transcript was the
5 person identified, not Mr. Muerto?

6 A. I'm sorry.

7 Q. Do you follow me? Muerto was the one that told you this
8 speaker wasn't him?

9 A. He told me who the speaker was.

11:43AM 10 Q. And he told you it wasn't him?

11 A. Well, it wasn't -- if it was that person, then it wasn't
12 another person.

13 Q. Fair enough. Now, there's also a transcript from
14 January the 8th that we expect to see. And on page --

15 THE COURT: I'm sorry, January the 8th. What year?

16 MR. LOPEZ: I'm sorry, your Honor, 2016.

17 THE COURT: 2016.

18 Q. And on page 23 of that transcript, there is a reference to
19 a phrase, "Welcome to the Mara," do you see that?

11:43AM 20 A. Yes.

21 Q. Now, originally when the indictment came down in this
22 case, do you know who that phrase was attributed to?

23 A. No.

24 Q. You don't. At some point in November of last year, were
25 you aware that a similar transcript attributed this to someone

1 other than the person identified in this document?

2 A. I believe so.

3 Q. And it wasn't the same person that's identified here?

4 A. I'd have to see both transcripts.

5 Q. What I'm trying to get at, at some point the person who
6 was identified in the transcript that was used during the
7 November trial, if you know, was changed to the person who's
8 identified here?

9 A. I don't know.

11:44AM 10 Q. You don't know. Then for this trial, yet a third person
11 was identified?

12 A. Possibly. You know, I didn't memorize the transcripts.

13 MR. LOPEZ: No further questions, your Honor.

14 THE COURT: Redirect, Ms. Lawrence.

15 REDIRECT EXAMINATION

16 BY MS. LAWRENCE:

17 Q. You were asked on cross-examination a little bit about
18 your process and you were asked about different drafts?

19 A. Correct.

11:45AM 20 Q. Again, can you just explain to the jury how you go through
21 the process of preparing a transcript from a recording, just in
22 simple terms?

23 A. I listen to the recording, and I write the -- I transcribe
24 it into English.

25 Q. And you make changes as you go as you listen to the

1 recording repeated times?

2 A. Yes.

3 Q. Okay. And you also talked about you testified that you
4 did not identify the speakers?

5 A. Correct.

6 Q. And that one source of identification that appears on the
7 transcripts you create is information from Jose
8 Hernandez-Miguel?

9 A. Yes.

11:45AM 10 Q. I believe you also testified on direct that there was
11 another source of information for the identity of the speakers?

12 A. Yes, I could be -- I could have received the information
13 along with a recording of who the speakers are, but I don't
14 know exactly who identified those.

15 Q. I'd like to show you.

16 MS. LAWRENCE: This is just for the witness, please.
17 This is the excerpt of Exhibit 28 that was admitted into
18 evidence. The jury can see this, too, correct? It's been
19 admitted, this particular piece?

11:46AM 20 THE COURT: Yes.

21 MS. LAWRENCE: Thank you.

22 Q. You were asked about the phrase in English, "There are
23 many of us here who have killed, homie"?

24 A. Yes.

25 Q. And you were asked about the meaning of the word "peguen,"

1 the Spanish?

2 A. Peguen, of the word here, yes.

3 Q. So why did you translate this particular Spanish phrase
4 into this English phrase?

5 A. That is one of the words that is used by this group of
6 people to mean either a hit or a murder, a kill.

7 Q. How do you know that?

8 A. Because I was told by Mr. Hernandez.

9 MS. LAWRENCE: One minute, your Honor. Nothing
10 further, your Honor.

11 THE COURT: Recross.

12 RECROSS-EXAMINATION

13 BY MR. IOVIENO:

14 Q. With respect to certain phrases now, you relied on Jose
15 Miguel Hernandez specifically with this phrase to tell you what
16 a word meant, correct?

17 A. Not only on him, because I have in the last three years
18 become familiar through talking with different people involved
19 in this case, so I have acquired a vocabulary in the sense for
20 this particular case.

21 Q. From other people involved in this case, correct?

22 A. Well, you know, I think you'd call it experience. From
23 working on something, you learn about it, and you learn the
24 words that are used. I don't remember specifically where I
25 first heard the word, meaning -- with this meaning, but

1 including Mr. Hernandez, yes.

2 Q. Were there other people who gave you that information
3 besides Mr. Hernandez?

4 A. Nobody that comes to mind at this moment.

5 Q. And you indicated that you relied on Mr. Hernandez, Jose
6 Miguel-Hernandez to identify the speakers, but you also relied
7 on unidentified people who had made other draft transcripts
8 that identified some speakers, too, also?

9 A. For the final draft, I relied only on Mr. Hernandez to
10 identify.

11 Q. For the other drafts that you incorporated into the final
12 draft, you relied on other people's interpretation in
13 identification of speakers, correct?

14 A. I may have begun with a certain identification, but if
15 Mr. Hernandez identified it differently, I changed -- if it was
16 different, I changed it.

17 Q. So you relied on what Mr. Hernandez gave you even to
18 change what other people had given you, correct?

19 A. Well, who do you mean by other people? Do you mean the
20 previous identifications in some of -- in the three or four
21 drafts that I saw?

22 Q. Yes.

23 A. Yes.

24 Q. Thank you.

25 MR. LOPEZ: Can I just have one question, your Honor?

1 THE COURT: Yes.

2 RECROSS-EXAMINATION

3 BY MR. LOPEZ:

4 Q. You never relied on CW-1; is that fair to say?

5 A. Yes.

6 MR. LOPEZ: Thank you.

7 THE COURT: You may step down now. Thank you. And we
8 may as well take our break now.

9 THE CLERK: All rise.

11:50AM 10 (JURORS EXITED THE COURTROOM.)

11 (A recess was taken.)

12 THE CLERK: All rise.

13 THE COURT: Can I see counsel quickly at sidebar.

14 (SEALED SIDEBAR RELATING TO A JUROR).

15 (Exhibit D was marked for identification.)

16 THE COURT: We need to swear in Ms. Huacuja as a
17 translator, which is different from being sworn in as a
18 witness.

19 (The interpreter was sworn.)

12:07PM 20 JOSE HERNANDEZ-MIGUEL, having been duly sworn by the
21 Clerk, testified through the Interpreter as follows:

22 MR. POHL: May I, your Honor?

23 THE COURT: Yes.

24 MR. POHL: Thank you.

25

1 DIRECT EXAMINATION

2 BY MR. POHL:

3 Q. Good afternoon.

4 A. Good afternoon.

5 Q. What is your name?

6 A. Jose Hernandez-Miguel.

7 Q. How old are you?

8 A. Thirty.

9 Q. You appear here today in court in an orange jumpsuit,
12:07PM 10 correct?

11 A. Yes.

12 Q. In 2016, were you charged in this court?

13 A. Yes.

14 Q. And did you plead guilty to the crimes you were charged
15 with?

16 A. Yes.

17 Q. And at the time you pleaded guilty, did you have a plea
18 agreement?

19 A. Yes.

12:08PM 20 MR. POHL: For the witness, Madam Clerk. Thank you.

21 Q. Do you see the document in front of you,
22 Mr. Hernandez-Miguel?

23 A. Yes.

24 Q. Okay. Have you reviewed that document before your
25 testimony here today?

1 A. Yes.

2 Q. And I'm going to start with the first paragraph here. To
3 make it easier for you to read, I'm going to blow it up I think
4 a little bit. And this is paragraph 1 -- is this your plea
5 agreement?

6 A. Yes.

7 Q. Okay. And does it list the crimes to which you pleaded
8 guilty?

9 A. Yes.

12:09PM 10 Q. And --

11 THE COURT: Excuse me, are you going to offer this?

12 MR. POHL: Yes, your Honor.

13 THE COURT: What number?

14 MR. POHL: It would be 49.1, and the corresponding
15 cooperation agreement will be 49.2. If there's no objection,
16 I'll just move these into evidence now.

17 THE COURT: We'll admit them, 49.1 and 49.2.

18 (Exhibit No. 49.1 and 49.2 received into evidence.)

19 THE COURT: Thank you, your Honor.

12:09PM 20 MR. POHL: Thank you. All right. Madame Clerk, for
21 the jury.

22 Q. All right. This is part of your plea agreement, correct?

23 A. Yes.

24 Q. And it sets out the crimes to which you've pleaded guilty,
25 correct?

1 A. Yes.

2 Q. And there are three crimes?

3 A. Yes.

4 Q. And one of them is racketeering conspiracy?

5 A. Yes.

6 Q. One of them is conspiracy to distribute 5 kilograms or
7 more of cocaine?

8 A. Yes.

9 Q. And the last one is conspiracy to distribute cocaine and
12:10PM 10 cocaine base, sometimes called "crack cocaine"?

11 A. Yes.

12 Q. Okay. And there's a final portion of the plea
13 agreement -- of this section of the plea agreement below it,
14 correct?

15 A. Yes.

16 Q. As part of your plea in the racketeering conspiracy, you
17 admitted that you committed a violent crime, correct?

18 A. Yes.

19 Q. And what was that?

12:11PM 20 A. That's participating in organized crime.

21 Q. And while you were participating in that, did you commit a
22 stabbing?

23 A. Yes.

24 Q. Okay. All right. So I'll quickly go through this next
25 paragraph, Mr. Hernandez-Miguel. It talks about the maximum

1 penalty that you can get for the crimes you pleaded guilty to,
2 correct?

3 A. Yes.

4 Q. And for racketeering conspiracy, you can go to prison for
5 20 years, correct?

6 A. Yes.

7 Q. Okay. And for the conspiracy to distribute 5 kilograms or
8 more of cocaine, you could go to prison for the rest of your
9 life, correct?

12:12PM 10 A. Yes.

11 Q. And at a minimum, you could serve -- you have to serve --
12 you would be required to serve 10 years in prison?

13 A. Yes.

14 Q. And for the conspiracy to distribute cocaine and crack
15 cocaine, you could again be sentenced to prison for 20 years?

16 A. Yes.

17 Q. Okay. I'm going to show you the last two pages of this
18 part of your plea agreement. This is the signature page,
19 correct? This is a signature page, correct?

12:13PM 20 A. Yes.

21 Q. Where the government lawyer signed, correct?

22 A. Yes.

23 Q. And that's my signature on the bottom, correct?

24 A. Yes.

25 Q. Okay. And the next page is the agreement by you, correct?

1 A. Yes.

2 Q. All right. And is there a place where you signed to
3 indicate that you understood what you were agreeing to when you
4 signed the plea agreement?

5 A. Yes.

6 Q. Okay. And is your signature on that document?

7 A. Yes.

8 Q. And under that signature is a space for your lawyer?

9 A. Yes.

12:14PM 10 Q. And that was signed on October 10, 2016?

11 A. Yes.

12 Q. Okay. In addition to the plea agreement, it sets out the
13 charges against you, correct? You had a second agreement,
14 correct?

15 A. Yes.

16 Q. All right. Mr. Hernandez-Miguel, have you reviewed
17 this -- this is, for the record, 49.2. Have you reviewed this
18 document before you testified here today?

19 A. Yes.

12:15PM 20 Q. Okay. And I'm going to just skip all the way to the end.
21 Again, there's a signature lines for the government lawyers to
22 sign, correct?

23 A. Yes.

24 Q. And then the final page, there's again a space for you to
25 sign, correct?

1 A. Yes.

2 Q. Okay. And Mr. Hernandez-Miguel, can you, in your own
3 words, explain what you are required to do under the
4 cooperation agreement that you signed?

5 A. What I understand from this paper is that I have to speak
6 only the truth.

7 Q. Okay. You've pleaded guilty in this case, correct?

8 A. Yes.

9 Q. All right. Have you been sentenced yet?

12:16PM 10 A. No.

11 Q. Okay. And do you know, as you sit here today, what
12 sentence you will get for the crimes you've pleaded guilty to?

13 A. Yes.

14 Q. Okay. Well, you haven't been sentenced yet, correct?

15 MR. MURPHY: Objection, your Honor.

16 THE COURT: Overruled.

17 A. No.

18 Q. Okay. And do you know when you are -- do you have a date,
19 do you know when that sentencing is going to happen?

12:16PM 20 A. Yes.

21 Q. Okay. Well, Mr. Hernandez-Miguel, when you said that you
22 have to tell the truth, okay --

23 A. Yes.

24 Q. -- prior to your testimony here today, have you met with
25 agents?

1 A. Yes.

2 Q. Okay. And have they asked you questions?

3 A. Yes.

4 Q. Okay. And have you reviewed recordings?

5 A. Yes.

6 Q. And audio recordings?

7 A. Yes.

8 Q. And video recordings?

9 A. Yes.

12:17PM 10 Q. Mr. Hernandez-Miguel, have you ever heard of the
11 organization known as "La Mara Salvatrucha" or "MS-13"?

12 A. Yes.

13 Q. Okay. Are you a member of MS-13?

14 A. Yes.

15 Q. Where were you born?

16 A. In El Salvador.

17 Q. How long did you -- well, when did you first come to the
18 United States?

19 A. In 2001.

12:18PM 20 Q. And where did you grow up in El Salvador?

21 A. La Union.

22 Q. And who did you live with?

23 A. With my parents.

24 Q. Okay. Do you have any brothers and sisters?

25 A. Yes.

1 Q. How many?

2 A. Nine.

3 Q. Did you ever hear of MS-13 when you lived in El Salvador?

4 A. Yes.

5 Q. How did you hear about MS-13 in El Salvador?

6 A. In the area where I lived, there were many members of MS.
7 So in the area where we lived, there were a lot of members, and
8 that's how I met them.

9 Q. So, how old were you when you first met members of MS-13?

12:20PM 10 A. About 10 years ago.

11 Q. Did you join MS-13 when you were in El Salvador?

12 A. No.

13 Q. Okay. How old were you when you first came to the
14 United States?

15 A. Fourteen years old.

16 Q. How did you come to the United States?

17 A. I came with a coyote.

18 Q. Okay. What is a coyote?

19 A. Someone whom you pay who knows the route well and you pay
12:20PM 20 them to bring you to this country.

21 Q. So how did you -- tell the jury how you did that. How did
22 you leave El Salvador and how did you travel to the
23 United States?

24 A. When I was 14 years old, an uncle of mine came to
25 El Salvador to travel, and he told me that he would help me in

1 order for me to help my family, to help my father.

2 Q. Let me interrupt you. Your uncle, did he live in the
3 United States at the time he came to visit you in El Salvador?

4 A. Yes.

5 Q. Okay. So your uncle came to visit?

6 A. Yes.

7 Q. And after that visit, you decided to come to the
8 United States?

9 A. Yes.

12:21PM 10 Q. With the coyote?

11 A. Yes.

12 Q. Okay. How did you get from El Salvador to the
13 United States when you came at age 14?

14 A. My uncle paid for a coyote. He paid half in El Salvador
15 and the other half when I was in L.A.

16 Q. Where did you cross into the United States?

17 A. Through Arizona.

18 Q. Did you walk across?

19 A. Yes.

12:22PM 20 Q. And after you crossed into Arizona, where did you go?

21 A. I reached L.A., and my uncle picked me up in L.A. My
22 uncle lived at a place called Seaside in California. It's near
23 Salinas.

24 Q. And is that where you settled initially?

25 A. Yes.

1 Q. Did you go to school?

2 A. Yes.

3 Q. Where did you go to school?

4 A. At the high school in Seaside.

5 Q. What happened in high school?

6 A. When I arrived, I had two jobs, when I arrived at Seaside.

7 After that, a friend that played soccer with me asked me how

8 old I was. I told him I was 15, and he told me you have to go

9 to high school. And he said if you ever want to go to high

12:24PM 10 school, call me, I will take responsibility for you. So one

11 day I called him that I wanted to go to school, and he took

12 charge, and that's why I went to high school.

13 Q. Okay. While you were in high school, okay, would it be

14 fair to say that you got in fights while you were in high

15 school?

16 A. Yes, when I started high school, I met the Surenos.

17 Q. Okay. What are the Surenos?

18 A. It's an L.A. gang, and they are called Surenos 13. I met

19 about four of them, and they represent the blue, the color

12:25PM 20 blue. So I started joining them, and it was through them that

21 I met a member of MS because one day I went out to smoke with

22 them, and we used to fight the Nortenos, and one day, through a

23 girl, he told me to go with him to smoke at a dude's house who

24 was from MS.

25 Q. Smoke what?

1 A. Marijuana.

2 Q. So your friends that were in the Sureños took you to a
3 house, and the person who lived in the house was an MS-13?

4 A. Yes.

5 Q. Okay. Who was that?

6 A. But I went with a girl to the member's house of MS-13.

7 Q. Okay. All right. Who did you meet at that house?

8 A. Curly.

9 Q. Okay. Who was Curly?

12:26PM 10 A. He was the word for a clique called Eastside Loco
11 Salvatrucha.

12 THE INTERPRETER: I'm sorry, not Eastside, Seaside
13 Loco Salvatrucha.

14 Q. Okay. You said that he was the word?

15 A. Yes.

16 Q. What does that mean, to be the word?

17 A. He's the -- palabrero is the person that runs the clique
18 because in the clique there's first word and second word. The
19 first word is in charge of bringing together all the members of
12:27PM 20 the clique for a meeting, for meetings.

21 Q. What is a clique?

22 A. Cliques are small groups of MS-13.

23 Q. And the person that you met, Curly, was the first word of
24 a particular clique?

25 A. Yes.

1 Q. Okay. And it was called Seaside?

2 A. Yes.

3 Q. All right. Once you met Curly, did you begin spending
4 time with members of MS-13?

5 A. Yes.

6 Q. What kind of things did you do?

7 A. When I first met Curly, he asked me who I hung out with,
8 and I told him I hung out with Surenos in the high school, and
9 he said why don't you hang out with the dudes from MS-13, and I
10 told him I hadn't met anyone in that area, so he told me that
11 if I wanted to, I could start hanging out with them, and that's
12 when I started hanging out with the MS.

13 Q. Okay. So what kinds of things would you do when you hung
14 out with the members of the Seaside clique of MS-13?

15 A. Fights against Nortenos, sometimes stabbing. That's what
16 the MS-13 does is kill rivals.

17 Q. As you were hanging around and meeting MS-13 members, they
18 taught you about what it means to be an MS-13?

19 A. Yes.

12:30PM 20 Q. Did they teach you -- they taught you about cliques,
21 correct?

22 A. Yes.

23 Q. As you were hanging out, did you meet members of other
24 cliques?

25 A. In Seaside, that was the only clique.

1 Q. Okay. What did they teach you about how you could become
2 a member of MS-13?

3 A. That one has to learn, that one has to gain the respect of
4 the homies.

5 Q. Of the homies, is that what you said?

6 A. Yes, the people who are already jumped in.

7 Q. Okay. So you said three things there. I'm going to ask
8 you about all three of them. First of all, you said the word
9 "homies." Okay. Is that a shorthand way of saying homeboy?

12:31PM 10 A. Yes.

11 Q. What is a homeboy?

12 A. A homeboy is someone who belongs to MS-13 that's already
13 been jumped.

14 Q. Okay. So, how do you become a homeboy in MS-13?

15 MR. MURPHY: Objection, your Honor, time frame.

16 THE COURT: Well, I guess we'll start with what he
17 learned or understood as to the Seaside clique during this time
18 period.

19 THE INTERPRETER: Could you repeat the question?

12:32PM 20 Q. Let me ask you a better question. You heard -- you used
21 the term "jumped" or "jumped in." What does that mean to you?

22 A. To "jump" or "jump in" is when one already has the respect
23 of the clique and they jump you in. They make a circle, and
24 three of them hit you while the runner is counting for 13
25 seconds.

1 Q. And then you used the term "respect." What things does
2 someone have to do to earn that respect, to become a homeboy in
3 MS-13?

4 MR. MURPHY: Objection, your Honor, same objection.
5 Time frame.

6 THE COURT: I guess let's start by putting a time
7 frame on that.

8 MR. POHL: Yes, your Honor.

9 Q. This is -- well, you came to the United States in 2001?

12:33PM 10 A. Yes.

11 Q. Okay. All right. So how many years had you been in the
12 United States when you first began to associate with MS-13?

13 A. About two years.

14 Q. Okay. And so for now, the questions I'm asking you are
15 what you were learning at the time that you were first getting
16 to know people in MS-13. So at the time that you were learning
17 about MS-13 in California, you were told that you had to earn
18 respect in order to become a member of MS-13; is that correct?

19 A. Yes.

12:34PM 20 Q. What kinds of things did you have to do to gain the
21 MS-13's respect before you could become a member?

22 A. To go out and look for rivals, Nortenos, fight, fight or
23 stab them.

24 Q. Did somebody tell -- well, how long did you spend time
25 with the members of the clique -- well, let me ask you this.

1 Did you become a member of MS-13 in the Seaside clique in
2 California?

3 A. Yes.

4 Q. So how long did you spend getting to know the members of
5 MS-13 before you became a member?

6 A. About six months.

7 Q. All right. Did you do anything during that time, those
8 six months, to earn MS-13's respect?

9 A. Yes.

12:36PM 10 Q. What was that?

11 A. Stab, fights.

12 Q. Let's talk about the stabbing. Can you tell the jury
13 about the stabbing you committed while you were in this period
14 of six months before you became a member of MS-13?

15 A. We would go out with other dudes walking to look for
16 Nortenos. Sometimes we'd go out to the liquor stores on the
17 main streets and stand there, and we would grab them right
18 there and fight with them because that's the mission of the
19 dudes of MS, which is to kill or stab rival members.

12:37PM 20 Q. Why? Why is that the mission?

21 A. Because MS want to be the only one. It doesn't want any
22 rivals. It wants to control everything.

23 Q. All right. You committed a stabbing while you were
24 getting to know the members of the MS-13 clique in California,
25 correct?

1 A. Yes.

2 Q. Okay. And what did you use to commit the stabbing?

3 A. It was a knife that had three blades.

4 Q. Okay. So you did something with your hand there. Can you
5 hold it up for me? What is it that you did?

6 A. It was like this. (Indicating)

7 Q. And who did you stab?

8 A. A Norteno.

9 Q. And who were you with when you stabbed them?

12:38PM 10 A. With Curly, a Sureno, and Curly's girlfriend.

11 Q. After that stabbing, what happened to you with the Seaside
12 clique?

13 A. Curly said to me that I had already now done something for
14 MS-13 and that I had some respect and that since I had now done
15 something for MS, if I wanted to, I could be jumped in, and I
16 said yes. So I was taken to a park and they formed a circle,
17 they put me in the middle, and I started getting a beating
18 there and while somebody counted to 13. And then after the
19 counting is over, everybody throws up their hand to flash the
12:40PM 20 Mara in joy.

21 Q. What do you mean by that, that everybody holds up their
22 hands? How do they hold up their hands?

23 A. Flashing your hand up, flashing the MS-13 sign, the M and
24 the S.

25 Q. Okay. So you did it while you were talking. Can you do

1 it again when you're not talking. What is it exactly that you
2 do to signify that you're an MS?

3 A. Like this (indicating). This is the M and this is the S.

4 Q. After you became a member of MS-13, did you come to visit
5 Boston?

6 A. Yes.

7 Q. Why did you come -- maybe I shouldn't have said Boston.
8 Why did you come to Massachusetts?

9 A. I had a sister in Massachusetts and her husband had passed
12:41PM 10 away and she asked me to come here.

11 Q. Where did she live?

12 A. In East Boston.

13 Q. And do you remember when approximately you first came to
14 visit your sister in East Boston?

15 A. Around 2004.

16 Q. Okay. And before you left to come to Boston, did you talk
17 about that with Curly?

18 A. Yes, I spoke to Curly, and I told him that I was planning
19 to come to Boston because I had a sister here, and Curly told
12:42PM 20 me that he had been in Boston and that he knew the dudes from
21 the MS here and that if I came to Boston, he was going to put
22 me in touch with the members of MS so that I could hang out
23 with them.

24 Q. Okay. Did he do that?

25 A. Yes.

1 Q. How did he do that?

2 MR. MURPHY: Objection, your Honor.

3 THE COURT: Let me see counsel quickly.

4 (THE FOLLOWING OCCURRED AT SIDEBAR:)

5 THE COURT: What answer do you expect to elicit?

6 MR. POHL: Curly put him in touch with Casper and then
7 he met Casper when he came to Boston.

8 MR. MURPHY: Your Honor, this is really merely to make
9 sure we are not waiving our earlier Petroziello-type objections
10 since I don't know that we've heard of Curly before. We've
11 heard of him in discovery.

12 MR. POHL: But not during the trial.

13 THE COURT: Yes. Mr. Lopez.

14 MR. LOPEZ: I would also ask that the witness just
15 answer the question asked and not continue to speak and add
16 stuff about what Curly told him. I mean, we can move to
17 strike, but I know it's background, but there's a lot of
18 hearsay coupled in.

19 THE COURT: I'm not sure there's too much of it, but
20 you're going to have to move to strike. I guess -- I mean, I'm
21 sure Mr. Pohl's ability to limit this is limited, you know, so
22 we'll take it question and answer at a time. We'll try to
23 control it as best we can as with any witness. And if you
24 think it's something really out of line, you'll have to move to
25 strike, okay? Obviously, if you think he's about to blurt out

1 hearsay, you can interrupt him for that purpose with an
2 objection.

3 MR. LOPEZ: Mu point is simply that there's no
4 allegation that Curly is part of this conspiracy. His
5 statements are not part of --

6 THE COURT: Well, I'm assuming that there's no Curly,
7 because of the *Petroziello* statements.

8 MR. POHL: Correct.

9 THE COURT: So I don't expect that to be elicited.

12:44PM 10 MR. LOPEZ: All right. Okay. Thank you.

11 (SIDEBAR CONFERENCE WAS CONCLUDED)

12 THE COURT: Why don't you put the question to the
13 witness again.

14 Q. So, I think that the question was after you told Curly you
15 were coming to Boston and he told you that he knew people in
16 the Boston area there in MS, did Curly put you in touch with
17 any MS members in Boston?

18 A. Yes.

19 Q. Okay. And who did he put you in touch with?

12:45PM 20 A. With Casper.

21 Q. When did you meet Casper?

22 A. I met him about two weeks after I arrived in Boston.

23 Q. And where did you meet him?

24 A. I lived on Eutaw Street in East Boston, and he came by
25 there to pick me up.

1 MR. POHL: And for the witness.

2 A. That's Casper.

3 Q. This is -- for the record, I'm showing the witness
4 Exhibit 2. That's Casper?

5 A. Yes.

6 MR. POHL: I'd offer this, your Honor.

7 THE COURT: It's already in.

8 MR. POHL: All right.

9 Q. When Casper came to pick you up, what do you remember
10 12:46PM about the first time you met Casper?

11 A. Well, Curly had already told me that Casper was a homeboy,
12 so he came by --

13 MR. MURPHY: Objection, your Honor.

14 THE COURT: I'm going to strike the thing about what
15 Curly said. Let's start over.

16 MR. POHL: Sure.

17 Q. And you met with -- well, you got in the car with Casper?

18 A. Yes.

19 Q. And where did you go?

20 12:46PM A. We went to hang out in Lynn, but since I didn't know my
21 way around, I don't remember which house we went to, but I do
22 remember that there were other dudes from MS there.

23 Q. Like who?

24 A. Playa was there, there were other dudes as well, like
25 Rebelde (ph). There was a dude that they called Tecolote, (ph)

1 and there were more there, but I don't recall.

2 Q. Can I put up Exhibit 3, which has already been admitted.
3 Mr. Hernandez-Miguel, I'm putting up Exhibit 3. Do you
4 recognize the person in that photograph?

5 A. Yes, Playa.

6 Q. All right. So that -- what did you do that day when you
7 met Casper and Playa?

8 A. We went there and we were drinking there.

9 Q. When you met Casper and Playa and the other people that
12:48PM 10 you met that day, is there a way that you, as a member of
11 MS-13, would introduce yourself to other members?

12 A. Yes.

13 Q. What would you say? Well, strike that. What did you say?

14 A. Well, when you arrive somewhere where there are other
15 dudes from MS-13, you flash the MS sign, and you say the name
16 of the clique you belong to, and you also say what rank you
17 are.

18 Q. Okay.

19 A. I'm sorry, and you also say your street name.

12:49PM 20 Q. Okay. So did you have a street name at that time?

21 A. Yes.

22 Q. Okay. Did you get it at the time that you were -- or did
23 you being to use it after you were jumped in?

24 A. That name you are given after you become a homeboy.

25 Q. Right. And what was the name that you used after you

1 became a homeboy with MS-13?

2 A. Muerto.

3 Q. So, all right, let's jump back to Boston now. So when you
4 met Casper, Playa, the other people you talked about, you
5 introduced yourself?

6 A. Yes.

7 Q. And how did you introduce yourself?

8 A. That I was Muerto from the Seaside Locos in California.

9 Q. Okay. And I think you said, in your answer before, you
12:50PM 10 said something about your rank or your position. What did you
11 say to that?

12 A. Yes.

13 Q. What did you say?

14 A. Homeboy.

15 Q. Okay. And did you have that conversation with Casper?

16 A. While we were in the car.

17 Q. What did Casper say to you when you -- after you
18 introduced yourself?

19 A. He was the runner of the Eastsides.

12:51PM 20 Q. After he drove you to the house in Lynn and you met
21 Playa -- excuse me after you met Mr. Guzman, you introduced
22 yourself to -- you introduced yourself?

23 A. Yes.

24 Q. The same way?

25 A. Yes.

1 Q. What did Mr. Guzman say to you after you introduced
2 yourself?

3 A. Well, one flashes MS and identifies the clique. At first,
4 he didn't tell me that he was a runner.

5 Q. The first time you met him, how did he introduce himself?

6 A. As a homeboy.

7 Q. So, Mr. Hernandez-Miguel, how long did you say in Boston
8 that first time that you met Casper and Playa?

9 A. About six or seven months, something like that.

12:52PM 10 Q. And after that time, where did you go?

11 A. I went back to California.

12 Q. Eventually -- would I be correct that you came back and
13 forth from California to Boston a couple of times?

14 MR. MURPHY: Objection, leading.

15 THE COURT: Sustained.

16 Q. Well, at some point, Mr. Hernandez Miguel did you move to
17 Massachusetts permanently?

18 A. Yes.

19 Q. About when was that?

12:53PM 20 A. Around 2007.

21 Q. When you came to Massachusetts in 2007, where did you
22 live?

23 A. In East Boston.

24 Q. Okay. And did you spend -- well, when you moved back in
25 2007, what did you do? Well, who did you -- did you see Casper

1 and Playa when you came back in 2007?

2 A. Not in the first few days because I went to hang out with
3 some dudes in Somerville, so I was hanging out with the dudes
4 in Somerville, and about six months later I came and met with
5 them. I started to see them again in Everett at Tecolote's
6 house.

7 Q. And when you began to see them again six months after you
8 came back to Massachusetts to stay, did you have a conversation
9 with Casper about his clique?

12:54PM 10 THE INTERPRETER: I'm sorry. Can you repeat the last
11 part of the question?

12 Q. And his clique.

13 A. Yes.

14 Q. Okay. And what did Casper -- what did you and Casper talk
15 about concerning his clique, concerning Casper's clique?

16 A. Since I was hanging out with the dudes in Somerville and
17 then I came to hang out at Tecolote's, one day Casper said why
18 don't you run with the Eastside clique since my clique was in
19 California and to take the word with Eastside.

12:55PM 20 Q. What did you say to that?

21 A. I said yes.

22 Q. And through -- after that conversation, did you begin to
23 associate yourself with the Eastside clique?

24 A. Yes.

25 Q. Okay. Now, you were jumped into MS-13 in Seaside in

1 California, correct?

2 A. Yes.

3 Q. Yet you were allowed to associate with Eastside here?

4 MR. MURPHY: Objection, your Honor. Leading.

5 THE COURT: Sustained.

6 Q. Well, when Casper brought you into the -- well, when
7 Casper suggested that you start to hang out with Eastside, did
8 you meet other members of the clique?

9 A. Yes, I saw Playa again.

12:56PM 10 Q. Okay. And what would you do with Casper and Playa?

11 A. Well, Casper was the runner and at that point Playa
12 introduced as second.

13 Q. Did you meet other members of the clique through Casper
14 and Playa?

15 A. Yes.

16 Q. I'm putting up Exhibit 5. Who is that?

17 A. Lobo.

18 Q. Putting up Exhibit 4, who is that?

19 A. CheChe.

12:57PM 20 Q. Okay. All right. I'm going to show you a series of other
21 pictures starting with 7 for the witness.

22 A. Tigre.

23 Q. 8?

24 A. Brujo.

25 Q. 9?

1 A. Animal.

2 Q. 10?

3 A. Vincentino.

4 Q. And 11.

5 A. Caballo.

6 Q. I want to show you one more picture, 12.

7 A. Danger.

8 Q. Okay. How do you know those people? How do you know
9 Tigre, Brujo, Animal, Vincentino, Caballo, and Danger?

12:58PM 10 MR. MURPHY: Objection.

11 THE COURT: I'll allow it.

12 THE WITNESS: They are homeboys.

13 MR. POHL: I'd offer all of those, your Honor, 7
14 through 12, yes. 8 is already in, 7, 9, 10, 11, 12.
15 Thank you, Madam Clerk.

16 THE COURT: 7, 9, 10, 11, 12 are admitted.

17 (Exhibit No. 7, 9, 10, 11, 12 received into evidence.)

18 Q. Let's go back to 4 for one minute, okay. Who is that?

19 A. CheChe.

12:59PM 20 Q. When did you meet CheChe?

21 A. Around 2008 or maybe 2007.

22 Q. And tell us about how you met CheChe.

23 A. I met him in East Boston.

24 Q. And did you introduce yourself to him?

25 A. Yes.

1 Q. All right. And after you introduced yourself to him, how
2 did he introduce himself to you?

3 A. He was a homeboy.

4 Q. Okay. With what clique?

5 A. Eastside.

6 MR. NORKUNAS: Judge, I object to that and ask that
7 that be stricken.

8 THE COURT: Overruled.

9 Q. Okay. And putting up Exhibit 5, who is that?

01:00PM 10 A. Lobo.

11 Q. All right. And when -- do you remember meeting Lobo?

12 A. Yes.

13 Q. When did you meet Lobo?

14 A. I met him around 2013.

15 Q. All right. Where did you meet him?

16 A. I met him after he had been jumped.

17 Q. Okay. And you introduced yourself to him?

18 A. Yes.

19 Q. And when you said you met him after he had been jumped,
01:00PM 20 what clique had he been jumped into?

21 A. The Eastside Locos Salvatrucha.

22 MR. POHL: Judge, would this be a good time to stop?

23 THE COURT: Yes. All right. Ladies and gentlemen,
24 we're going to stop for the day. Tomorrow is the day that
25 we're going to start at 9:30. We'll still go to one. My plan

1 is, unless someone needs a break, to try to break whatever the
2 mid-point is of that, 11:15, somewhere in there and go to 1:00
3 to have a normal day, and hopefully it will be about as long as
4 a regular day.

5 So again, please remember my caution not to discuss
6 the case among yourselves or with anyone else and not to pay
7 any attention to any media reports if there are any, and I'll
8 see you tomorrow morning at 9:30.

9 THE CLERK: All rise.

10 (JURORS EXITED THE COURTROOM.)

11 THE COURT: I don't know whether I'll have time to
12 meet you before trial tomorrow, but if I could ask you to all
13 be here about 9:15 or so, I may or may not be able to do it,
14 I'd like having any opportunity to see if there's any issues we
15 need to discuss, and is there anything we need to take up now?

16 MR. LOPEZ: Your Honor, this morning there was some
17 problem with the defendants getting dressed and coming here for
18 the 8:30 time with you. I don't know what the mix-up was, but
19 they were here very early. For some reason, they weren't
01:03PM 20 brought up, and my client just wanted me to bring to your
21 attention he prefers to be present at those.

22 THE COURT: Yes, and I would prefer him to be present
23 as well. Sometimes the van is late, sometimes there are
24 logistical issues, you know, it's hard to make this perfect,
25 but I would like the defendants here in civilian clothing at

1 8:30, if at all possible.

2 MR. LOPEZ: I believe he arrived about 6:30 this
3 morning.

4 THE COURT: And I'll ask the marshals and CSOs and
5 whoever is in charge of that to try and make that happen. I do
6 understand sometimes it doesn't all fall into place.

7 MR. LOPEZ: Thank you, your Honor.

8 THE COURT: All right. Thank you.

9 THE CLERK: All rise.

10 (Whereupon, the hearing was adjourned at 1:03 p.m.)

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C E R T I F I C A T E

UNITED STATES DISTRICT COURT)
DISTRICT OF MASSACHUSETTS) ss.
CITY OF BOSTON)

I do hereby certify that the foregoing transcript was
recorded by me stenographically at the time and place aforesaid
in Criminal Action No. 15-10338-FDS, UNITED STATES vs. HERZZON
SANDOVAL, et al., and thereafter by me reduced to typewriting
and is a true and accurate record of the proceedings.

Dated this 7th day of June, 2018.

s/s Valerie A. O'Hara

VALERIE A. O'HARA

OFFICIAL COURT REPORTER